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THE  
UNREPEALED ACTS  
OF THE  
INDIAN LEGISLATURE<sup>s.</sup>  
For the year 1922.

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CALCUTTA  
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# ACTS OF THE INDIAN LEGISLATURE.

PASSED IN 1922.

## TABLE OF CONTENTS.

Act No.	Pages.
I. The Indian Electricity (Amendment) Act ...	1
II. The Indian Factories (Amendment) Act ...	9
III. The Benares Hindu University (Amendment) Act ...	19
IV. The Special Laws Repeal Act ...	19
V. The Indian Criminal Law (Amendment) Act ...	23
VI. The Indian Lunacy (Amendment) Act ...	22
VII. The Indian Emigration Act ...	24
VIII. The Delhi University Act ...	35
IX. The Civil Procedure (Amendment) Act ...	60
X. The Indian Limitation (Amendment) Act ...	62
XI. The Indian Income-tax Act, 1922 ...	63
XII. The Indian Finance Act ...	96
XIII. The Ranchi Mental Hospital Act ...	120
XIV. The Press Law Repeal and Amendment Act ...	128
XV. The Indian Ports (Amendment) Act, 1922 ...	136
XVI. The Indian Extradition (Amendment) Act ...	137
XVII. The Indian Museum (Amendment) Act ...	137
XVIII. The Negotiable Instruments (Amendment) Act ...	138
XIX. The Courtfees (Amendment) Act ...	138
XX. The Parsi Marriage and Divorce (Amendment) Act ...	139
XXI. The Official Trustees and Administrator Generals Act...	140
XXII. The Police (Incitement to Disaffection) Act ...	141
XXIII. The Transfer of Ships Restriction (Repealing) Act, 1922	143



# ACT NO 1 OF 1922.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 25th  
January 1922.*

## **An Act further to amend the Indian Electricity Act, 1910.**

WHEREAS it is expedient further to amend the Indian Electricity Act 1910 ; It is hereby enacted as follows :—

**1.** This Act may be called the Indian Electricity (Amendment) Act 1922.

**2.** For clause (1) of section 2 of the Indian Electricity Act 1910 \* (herein after referred to as the said Act), the following shall be substituted namely :—

“ (1) ‘service line’ means any electric supply line through which energy is, or is intended to be, supplied by a licensee—

(i) to a single consumer either from a distributing main or immediately from the licensee’s premises, or

(ii) from a distributing main to a group of consumers on the same premises or on adjoining premises supplied from the same point of the distributing main.”

**3.** In sub-clause (ii) of clause (a) of sub-section (2) of section 3 of the said Act for the words “General Officer Commanding the Division,” the words “Director of Military works” shall be substituted.

**4.** In section 17 of the said Act,—

(a) in sub-section (1), for the words “not being service lines immediately attached or intended to be immediately attached to a distributing main,” the words “not being either service lines” shall be substituted ; and

(b) in sub-section (2), after the word “laying” the words “or placing” shall be inserted and the words “underground” and “immediately attached or intended to be immediately attached to a distributing main” shall be omitted.

**5. In section 18 of the said Act,—**

Amendment of section 18,  
Act IX of 1910.

(a) for sub-section (3) the following sub-section shall be substituted, namely:—

“(3) Where any tree standing or lying near an aerial line, or where any structure or other object which has been placed or or has fallen near an aerial line subsequently to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with the conveyance or transmission of energy or the accessibility of any works, a Magistrate of the first class or, in a Presidency-town or Rangoon, the Commissioner of the Police, may, on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he thinks fit” ; and

(b) after sub-section (4), the following *Explanation* shall be added namely :—

“*Explanation.*—For the purposes of this section, the expression “tree” shall be deemed to include any shrub, hedge, jungle-growth or other plant.”

Insertion of new section  
19A in Act IX of 1910.

**6. After section 21 of the said Act,** the following section shall be inserted under the heading “*Supply*,” namely :—

“19A. For the purposes of this Act, the point at which the supply of energy by a licensee to a consumer shall be deemed to commence shall be determined in such manner as may be prescribed.”

**7. In section 20 of the said Act,—**

Amendment of section 20,  
Act IX of 1910.

(a) in clause (c) of sub-section (1), after the word “supply lines” the word “meters” shall be inserted and

(b) after sub-section (2), the following sub-section shall be added, namely:—

“(3) Where a consumer refuses to allow a licensee or any person authorised as aforesaid to enter his premises in pursuance of the provisions of sub-section (1) or sub-section (2), or, when such licensee or person has so entered, refuses to allow him to perform any act which he is authorised by those sub-sections to perform, or fails to give reasonable facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer.”

**8. In section 21 of the said Act,** sub-section (2) shall be re-numbered (4), and after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment of section 21,  
Act IX of 1910.

“(2) Subject to the provisions of sub-section (1), a licensee may, with the previous sanction of the Local Government, given after consulting the local authority, where the licensee is not the local authority, make conditions not inconsistent with this Act or with his licence or with any rules made under this Act, to regulate his relations with persons who are or intend to become consumers, and may with the like sanction given after the like consultation add to or alter or amend any such conditions ; and any conditions made by a licensee without such sanction shall be null and void :

Provided that any such conditions made before the 23rd day of January 1922 shall, if sanctioned by the Local Government on application made by the licensee before such date as the Local Government may, by general or special order, fix in this behalf, be deemed to have been made in accordance with the provisions of this sub-section.

(3) The Local Government may, after the like consultation, cancel any condition or part of a condition previously sanctioned under sub-section (2) after giving to the licensee not less than one month's notice in writing of its intention so to do.”

Amendment of section 23,  
Act IX of 1910.

**9.** To section 23 of the said Act, the following sub-sections shall be added, namely:—

“(3) In the absence of an agreement to the contrary, a licensee may charge for energy supplied by him to any consumer—

- (a) by the actual amount of energy so supplied, or
- (b) by the electrical quantity contained in the supply, or
- (c) by such other method as may be approved by the Local Government.

(4) Any charges made by a licensee under clause (c) of sub-section (3) may be based upon, and vary in accordance with, any one or more of the following considerations, namely:—

- (a) the consumer's load factor, or
- (b) the power factor of his load, or
- (c) his total consumption of energy during any stated period,  
or

(d) the hours at which the supply of energy is required.”

Amendment of section 24,  
Act IX of 1910.

**10.** In section 24 of the said Act,—  
(a) the first paragraph ending with the words “but no longer” shall be renumbered as sub-section (1), and, in that sub-section as re-numbered, for the words “other sum” where they first occur, the words “sum, other than a charge for energy,” shall be substituted; and



(b) the proviso shall be re-numbered sub-section (2), and, in that sub-section as re-numbered, the words "Provided that" shall be omitted, and to the sub-section the following proviso shall be added, namely:—

"Provided that the prohibition contained in this sub-section shall not apply in any case in which the licensee has made a request in writing to the consumer for a deposit with the Electric Inspector of the amount of the licensee's charges or other sums in dispute or for the deposit of the licensee's further charges for energy as they accrue, and the consumer has failed to comply with such request."

Amendment of section 26,  
Act IX of 1910. **11.** In sub-section (6) of section 26 of the said Act, the words "on the basis of the previous supply" shall be omitted, and to the sub-section the following proviso shall be added, namely:—

"Provided that, before either a licensee or a consumer applies to the Electric Inspector under this sub-section, he shall give to other party not less than seven days' notice of his intention so to do."

Amendment of section 27,  
Act IX of 1910. **12.** To the third proviso to section 27 of the said Act, the following shall be added, namely:—

"unless the Local Government, after such inquiry as it thinks fit, considers that such consent has been unreasonably withheld."

Amendment of section 28,  
Act IX of 1910. **13.** In sub-section (1) of section 28 of the said Act, the first proviso and the word "also" in the second proviso be omitted.

Amendment of section 30,  
Act IX of 1910. **14.** I clause (b) of sub-section (1) of section 30 of the said Act,—

(a) in sub-clause (ii) for the figures "1881" the figures "1911" shall be substituted; and

(b) after sub-clause (iii), the following shall be inserted, namely:—

"or

(iv) to which the Local Government, by general or special order, declares the provisions of this sub-section to apply."

Amendment of section 33,  
Act IX of 1910. **15.** For sub-sub-section (1) of section 33 of the said Act, the following sub-section shall be substituted, namely,

"(1) If any accident occurs in connection with the generation, transmission, supply or use of energy in or in connection with, any part of the electric supply-lines or other works of any person,

and the accident results or is likely to have resulted in loss of life or personal injury, such person shall give notice of the occurrence and of any loss of life or personal injury actually occasioned by the accident, in such form and within such time and to such authorities as the Local Government may, by general or special order, direct."

**16.** In section 35 of the said Act, sub-section (3) shall be omitted, and sub-section (4) shall be re-numbered (3), and in sub-section (3) as re-numbered, clauses (a), (b) and (c) shall be re-numbered (b), (c) and (d), respectively, and the following shall be inserted as clause (a), namely:—

"(a) determine the number of members of which any such Board shall be constituted and the manner in which such members shall be appointed."

**17.** To sub-section (3) of section 36 of the said Act, the words "or, if the Governor General in Council or the Local Government, as the case may be, by general or special order, so directs, to an Advisory Board" shall be added.

**18.** In section 37 of the said Act,—  
(a) in clause (i) of sub-section (2), the word "and" at the end shall be omitted, and after clause (k) of the same sub-section the following shall be inserted, namely :—

"and

(l) provide for any matter which is to be or may be prescribed"; and

(b) sub-section (3) shall be re-numbered (4), and the following sub-section shall be inserted after sub-section (2), namely :—

"(3) Any rules made in pursuance of clause (i) or clause (k) of sub-section (2) shall be binding on the Crown."

**19.** In section 44 of the said Act,—  
(a) for the words "three hundred", and "thirty," the words "five hundred" and "fifty" respectively, shall be substituted,

(b) for the words "the existence of artificial means," the words "if it is proved that any artificial means exist" shall be substituted;

(c) for the words "shall, where," the words "and that" shall be substituted; and

(d) for the words "be *prima facie* evidence," the words "it shall be presumed, until the contrary is proved," shall be substituted.

**20.** In section 51 of the said Act, for the words "Governor General in Council" in both places where they occur, the words "Local Government" shall be substituted.

Amendment of section 51,  
Act IX of 1910.

**21.** In clause (a) of sub-section (1) of section 53 of the said Act, for the words "the Secretary in the Public Works Department," the words "such officer as the Governor General in Council or the Local Government, as the case may be, may designate in this behalf" shall be substituted.

Amendment of section  
53, Act IX of 1910.

**22.** In section 55 of the said Act, after the word and figures "section 18," the words, figures and brackets "or section 34, sub-section (2)" shall be inserted.

Amendment of section  
55, Act IX of 1910.

**23.** In sub-clause (1) of clause VI of Schedule to the said Act,—

Amendment of clause VI  
of the Schedule to Act IX  
of 1910.

(a) after the word "where" where it first occurs, the words "after distributing mains have been laid down under the provisions of clause IV or clause V and the supply of energy through those mains or any of them has commenced," shall be inserted.

(b) for the words "one hundred yards from any distributing main," the words "the area of supply" shall be substituted ;

(c) after the words "within one month from the making of the requisition," the words "or within such longer period as the Electric Inspector may allow" shall be inserted ;

(d) to clause (d) of the second proviso, the following words shall be added, namely :—

"but the licensee shall re-connect the supply with all reasonable speed on the cessation of the act or default or both, as the case may be, which entitled him to discontinue it"; and

(e) in the fourth proviso—

(i) for the words "in the event of any requisition being made for a supply of energy from any distributing main of which," the words "if any requisition is made for a supply of energy and" shall be substituted ; and

(ii) for the word "it" in clause (a), the words "the nearest distributing main" shall be substituted

**24.** For clause VII of the Schedule to the said Act, the following shall be substituted, namely :—

Substitution of new clause  
VII of the Schedule to Act  
IX of 1910.

“VII. The licensee shall, before commencing to lay down or place a service line in any street in which a distributing main has not already been laid down or placed, serve upon the local authority (if any) and upon the owner or occupier of all premises abutting on so much of the street as lies between the points of origin and termination of the service line so to be laid down or placed twenty-one days’ notice stating that the licensee intends to lay down or place a service line, and intimating that, if within the said period the local authority or any five or more of such owners or occupiers require, in accordance with the provisions of the licence, that a supply shall be given for any public lamps or to their premises, as the case may be, the necessary distributing main will be laid down or placed by the licensee at the same time as the service line.”

Amendment of clause VIII of Schedule to Act IX of 1910.

**25.** In sub-clause (1) of clause VIII of the Schedule to the said Act,—

(a) after the word “where” the words “after distributing mains have been laid down under the provisions of clause IV or clause V, and the supply of energy through those mains or any of them has commenced” shall be inserted; and

(b) for the words “distance of one hundred yards from any distributing main,” the words “area of supply” shall be substituted.

Amendment of clause X of Schedule to Act IX of 1910.

**26.** In clause X of the Schedule to the said Act,—

(a) the first part of the clause up to and including sub-clause (c) shall be omitted;

(b) the first proviso shall be re-numbered sub-clause (1), and in that sub-clause as re-numbered—

(i) the words “ Provided, first, that ” shall be omitted, and

(ii) for the words “ so approved by the Local Government,” the words, figures and brackets “ approved by the Local Government in accordance with section 23, sub-section (3), clause (c), of the Indian Electricity Act, 1910 ” shall be substituted;

(c) the second proviso shall be re-numbered sub-clause (2), and from that sub-clause as re-numbered the words “ Provided, Secondly, that ” shall be omitted; and

(d) the third proviso shall be re-numbered sub-clause (3), and from that sub-clause as re-numbered the words “ Provided, thirdly, that,” shall be omitted.

Amendment of clause XI  
of Schedule to Act IX of  
1910.

**27.** In the first proviso to clause XI of the Schedule to the said Act,—

(a) the words “or is satisfied” shall be omitted ; and

(b) for the words “ may, after such inquiry (if any) as it thinks, fit. make an order accordingly,” the following shall be substituted, namely :—

“ shall refer the matter to an Advisory Board and, if the Board recommends any alteration, may make an order in accordance with such recommendation ”

Insertion of new clause  
XIA in Schedule to Act  
IX of 1910.

**28.** After clause XI of the Schedule to the said Act, the following clause shall be inserted, namely :—

Minimum charges.

“ **XIA.** A licensee may charge a consumer a minimum charge for energy of such amount and determined in such manner as may be specified by his licence, and such minimum charge shall be payable notwithstanding that no energy has been used by the consumer during the period for which such minimum charge is made.”

Amendment of clause XVI  
of Schedule to Act IX of  
1910.

**29.** In clause XVI of the Schedule to the said Act,—

(a) in sub-clause (1) for the words “and the approximate height above or depth,” the words “and, in the case of underground works, the approximate depth ” shall be substituted ;

(b) for sub-clause (2), the following shall be substituted, namely :—

“ (2) Every such plan shall be drawn to such scale as the Local Government may require : provided that no scale shall be required unless maps of the locality on that scale are for the time being available to the public ” ; and

(c) for sub-clause (3), the following shall be substituted, namely :—

“ (3) Every such section shall be drawn to horizontal and vertical scales which shall be such as the Local Government may require.”

**ACT NO. II OF 1922.**

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 25th January, 1922).***An Act further to amend the Indian Factories Act, 1911.**

Whereas it is expedient further to amend the Indian Factories Act, 1911\* ; It is hereby enacted as follows :—

Short title, extent and commencement.      **1.** (1) This Act may be called the Indian Factories (Amendment) Act, 1922.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on the first day of July, 1922.

Amendment of section 2, Act XII of 1911.      **2.** In section 2 of the Indian Factories Act, 1911\* (hereinafter referred to as the said Act),—

(a) in clause (1) for the word “fourteen” the word “fifteen” shall be substituted ;

(b) for clause (3) the following clause shall be substituted, namely :—

“(3) ‘factory’ means—

(a) any premises wherein, or within the precincts of which, on any one day in the year not less than twenty persons are simultaneously employed and steam, water or other mechanical power or electrical power is used in aid of any process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, for transport or for sale any article or part of an article ; or.

(b) any premises wherein, or within the precincts of which, on any one day in the year not less than ten persons are simultaneously employed and any such process is carried on, whether any such power is used in aid thereof or not which have been declared by the Local Government, by notification in the local official Gazette, to be a factory ;

A declaration under clause (b) may be made in respect of any class of premises, or in respect of any particular premises” ;

(c) for clauses (8) and (9), the following clause shall be substituted, namely :—

“(8) ‘week’ means the period between midnight on Saturday night and midnight on the succeeding Saturday night.”

Substitution of new  
section for section 3, Act  
XII of 1911.

3. For section 3 of the said Act, the following section shall be substituted, namely :—

“3. Nothing in this Act shall apply to any mine subject to the operation of the Indian Mines Act, 1901.\*”

Amendment of section 7,  
Act XII of 1911.

4. In section 7 of the said Act, for sub-section (2), the following sub-sections shall be substituted, namely :—

“(2) A certifying surgeon may revoke any certificate granted to a child under sub-section (1) if, in his opinion, the child is no longer fit for employment in a factory.

(3) Where a certifying surgeon refuses to certify that a person is fit for employment in a factory or revokes a certificate granted to a child in this behalf, he shall, if required by such person or child, or by the parent or guardian of such person or child, or by the manager of the factory in which such person or child desires to be employed, state in writing his reasons for such a refusal or revocation.’

Amendment of section 8,  
Act XII of 1911.

5. In section 8 of the said Act.—

(a) for the words “any person practising medicine or surgery,” the words ‘any registered practitioner’ shall be substituted ;

(b) in the proviso for the words “after the first date” to the end of the section, the words “for a period of more than three months” shall be substituted ;

(c) after the proviso, the following *Explanation* shall be added, namely :—

21 & 22 Vict., C. 90.

“*Explanation*—In this section the expression registered practitioner, means any person registered under the Medical Act, 1858, or any Act amending the same or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, and includes, in any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the local official Gazette, to be a registered practitioner for the purposes of this section.’

Insertion of new section  
8A in Act XII of 1911.

**6** After section 8 in Chapter II of the said Act the following section shall be inserted, namely :—

Compulsory medical  
examination.

"8A. Where an Inspector is of opinion that a child employed in a factory is no longer fit for employment, he may serve on the manager of the factory a notice requiring that such child shall cease to be employed until he has been re-examined by a certifying surgeon or by a registered practitioner authorised by a certifying surgeon in this behalf.

Amendment of section 9,  
Act XII of 1911.

**7,** To section 9 of the said Act, the following clause shall be added, namely :—

(d) the atmosphere shall not be rendered so humid by artificial means as to be injurious to the health of the persons employed therein,"

Amendment of section 18,  
Act XII of 1911

**8.** In 'clause (c) of sub-section (1) of section 18 of the said Act, after the word "machinery," the words "and electrical fittings including live wires and switches" shall be inserted.

Insertion of new section  
18A in Act XII of 1911.

**9** After section 18 of the said Act, the following section shall be inserted, namely:—

Repairs to buildings or  
machinery.

" 18A. (1) If an Inspector is of opinion—

(a) that any factory or part thereof is in such a condition as to be dangerous to human life or safety, or

(b) that any part of the ways, works, machinery or plant used in a factory is in such a condition that it cannot be used without danger to human life, or safety.

he may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for removing the danger, and requiring him to carry them out before such date as may be specified therein.

(2) If, in the opinion of the Inspector, the use of any part of the ways, works, machinery or plant in a factory involves imminent danger to human life, he may serve on the manager of the factory an order in writing prohibiting the use thereof until it is duly repaired or altered."

Insertion of new sections  
19A and 19B in Act XII of  
1911.

**10.** After section 19 of the said Act, the following sections shall be inserted, namely :—

Power to prohibit presence  
of children in factories.

"19 A. Where, in the opinion of the Inspector, the presence in any factory or any part thereof children, who, by reason of their age, cannot, under the provisions of this Act, be lawfully employed therein,



involves danger to, or injury to the health of, such children, he may serve on the manager of such factory an order in writing prohibiting the admission of such children to the factory or part thereof.

Prohibition \* of employment of women and persons under eighteen years in certain processes. 19B. No person under the age of eighteen years and no woman shall be employed in any factory in any of the operations specified in Part I of the Schedule, or, save in accordance with the regulations contained in Part II of the Schedule, in any operation involving the use of lead compounds."

Amendment of section 20, Act XII of 1911. 11. In the proviso to section 20 of the said Act, after the word "roof," the words "or to such height as the Inspector may, in any particular case, specify" shall be inserted.

Substitution of new section for section 21, Act XII of 1911. 12. For section 21 of the said Act, the following section shall be substituted, namely:—

Rest periods in factories. "21. (1) In every factory there shall be fixed,—

(a) for each person employed on each working day—

(i) at intervals not exceeding six hours, periods of rest of not less than one hour, or

(ii) at the request of the employees concerned, periods of rest of not less than half an hour each so arranged that, for each period of six hours work done, there shall be periods of rest of not less than one hour's duration in all, and that no person shall work for more than five hours continuously, and

(b) for each child working more than five and a half hours in any day, a period of rest of not less than half an hour.

(2) The periods of rest under clause (b) shall be so fixed that no such child shall be required to work continuously for more than four hours.

Amendment of section 22, Act XII of 1911. 13. The clause (b) of sub-section (1) of section 22 of the said Act, the following proviso shall be added namely :—

"Provided that no such substitution shall be made as will result in any person working for more than ten consecutive days without a holiday for a whole day."

Amendment of section 23,  
Act XII of 1911.

**14.** (1) In clause (a) of section 23 of the said Act, for the word "nine" the word "twelve" shall be substituted.

(2) In clause (c) of section 23 of the said Act, for the word "seven" the word "six" shall be substituted.

(3) The provisions of clause (a) of section 23 of the said Act, as hereby amended, shall not apply to any child lawfully employed in a factory on or before the first day of July, 1921.

Amendment of section 25,  
Act XII of 1911.

**15.** In section 25 of the said Act, after the word "child" the words "or, save in such circumstances as may be prescribed, any other person" shall be inserted.

Amendment of section 26,  
Act XII of 1911.

**16.** In section 26 of the said Act for the work "woman or child" and the words "woman and child" the word "person" shall be substituted.

Substitution of new  
section for section 27,  
Act XII of 1911.

**17.** For section 27 of the said Act, the following sections shall be substituted, namely :—

Limitation of working  
hours per week.

"27. No person shall be employed in a factory for more than sixty hours in any one week.

Limitation of working  
hours per week.

28. No person shall be employed in any factory for more than eleven hours in any one day."

Substitution of new Chap-  
ter for Chapter V, Act XII  
of 1911.

**18.** For Chapter V of the said Act, the following Chapter shall be substituted, namely :—

## "CHAPTER V.

### EXCELTIONS,

Exceptions for persons  
holding positions of super-  
vision, etc.

29 Nothing in any of the following sections namely, 21, 22, 24, 26, 27, and 28 shall apply to persons who may, by rules made by the Local Government under this Act, be defined to be persons holding positions of supervision or management or to persons employed in a confidential capacity,

Exemptions.

30. (1) Where it is proved to the satisfaction of the Local Government—

(a) that any class of work in a factory is in the nature of preparatory or complementary work which must

necessarily be carried on outside the limits laid down for the general working of the factory; or

(b) that the work of any class of workers is essentially intermittent ; or

(c) that there is in any class of factories any work which necessitates continuous production for technical reasons ; or

(d) that any class of factories supplies the public with articles of prime necessity which must be made or supplied every day : or

(e) that in any class of factories the work performed, by the exigencies of the trade or by its nature, cannot be carried on except at stated seasons or at times dependent on the irregular action of natural forces ; the Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt on such conditions, if any, as it may impose—

in case (a) such class of work from all or any of the provisions of sections 27 and 28 ;

in case (b) work of the nature described from all or any of the provisions of sections 22, 27 and 28 ;

in case (c) work of the nature described from the provisions of sections 21 and 22 ;

in cases (d) and (e) such class of factories from the provisions of section 22.

(2) The Local Government may, by general or special order, exempt for such period as may be specified in the order and on such conditions, if any, as it may impose, any factory from all or any of the provisions of sections 21, 22, 27 and 28, on the ground that such exemption is necessary in order to enable such factory to deal with an exceptional press of work,

(3) In such circumstances and subject to such conditions as may be prescribed, nothing in section 21, section 22, section 27 or section 28 shall apply to work on urgent repairs,

31. Where, under the provisions of sub-section (1) of section 30, any factory has been exempted from the provisions of section 27, every person employed in such factory for more than sixty hours in any one week shall be paid, in respect of the overtime, at a rate which shall be at least one and a quarter times the rate at which he is normally paid,

32. The Local Government may, subject to the control of the Governor General in Council, by notification in the

Special exemptions for Indigo, tea and coffee factories.

local official Gazette, exempt any indigo factory or any factory situated on, and used solely for the purposes of, a tea or coffee plantation, from all or any of the provisions of sections 21 and 22, on such conditions, if any, as it may impose."

**19.** In sub-section (1) of section 33 of the said Act, for clauses (a) and (b), the words "on or before the date on which the factory commences working as such" shall be substituted.

Amendment of section 33,  
Act XII of 1911.

**20.** For section 35 of the said Act, the following section shall be substituted, namely :—

Substitution of new section  
for section 35, Act XII of  
1911.

**35.** In every factory there shall be kept, in the prescribed form, a register of all the persons employed in such factory, of their hours of work and of the nature of their respective employment,"

Register of workers.

**21.** In section 36 of the said Act,—

Amendment of section 36,  
Act XII of 1911.

(a) for clause (b) of sub section (1), the following shall be substituted, namely :—

"(b) the periods of rest fixed under section 21 " ;

(b) in clause (d) of sub-section (1), for the words " women and children, respectively, if not employed in shifts," the words " all persons employed " shall be substituted ;

(c) after clause (a) of sub-section (1), the following shall be inserted, namely :—

"(e) the weekly holidays fixed under section 22."

**22.** In sub-section (2) of section 37 of the said Act,—

Amendment of section 37,  
Act XII of 1911.

(a) in clause (g) after the word "ventilation," the words "and artificial humidification" shall be inserted ;

(b) in clause (f), after the word " machinery," the words " and electrical fittings" shall be inserted ;

(c) after clause (j), the following clause shall be inserted, namely:—

" (j) the definition of ' person ' under section 29 who shall be deemed to be persons holding positions of supervision or management or persons employed in a confidential capacity."

**23.** After section 38 of the said Act, the following section shall be inserted, namely:—

Insertion of new section 38 A in Act XII of 1911.

“38A. The Governor General in Council may make rules for the adequate disinfection of wool used in factories which may be infected with anthrax spores.”

Rules for prevention of anthrax.

**24.** In section 39 of the said Act,—

(a) in sub-section (1) for the word and figures “section 38,” the words and figures “section 38 and 38A” shall be substituted;

(b) in sub-section (2), for the words and figures “sections 37 and 38,” the words and figures “sections 37, 38 and 38A” shall be substituted.

Amendment of section 39, Act XII of 1911.

**25.** In section 41 of the said Act,—

(a) in clause (f), for the words “machinery or boilers,” the words “machinery; electrical fittings or boilers” shall be substituted;

Amendment of section 41, Act XII of 1911.

(b) in clause (g), for the words and figures “or section 18,” the words and figures “section 18, section 18A or 19B” shall be substituted;

(c) for the words “two hundred,” the words “five hundred” shall be substituted.

**26.** In section 43 of the said Act, for the words “two hundred” the words “five hundred” shall be substituted.

Amendment of section 43, Act XII of 1911.

**27.** After section 43 of the said Act, the following section shall be inserted, namely:—

Insertion of new section 43A in Act XII of 1911.

“43A. Where under this Act a Criminal Court imposes a fine or confirms in appeal, revision or otherwise, a sentence of fine in respect of an offence causing bodily injury or death, the Court may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured or, in the case of his death, to his legal representative :

Power of Court to pay compensation out of fine.

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.”

Amendment of section  
48, Act XII of 1911.

**28.** In section 48 of the said Act, at the end of sub-section (2), the words and figures "or section 44" shall be added.

Amendment of section  
50, Act XII of 1911.

**29.** In section 50 of the said Act,—

(a) in sub-section (1), for the words and figures "or section 18," the words and figures "section 18, section 18A or section 19A" shall be substituted ;

(b) after sub-section (3), the following sub-section shall be inserted, namely :—

"(4) Except in the case of an appeal against an order under section 19A, the appellate authority may, on the application of the appellant, suspend the operation of an order of the Inspector pending the decision of the appeal. But where no such suspension has been granted, such order shall be complied with notwithstanding the fact that an appeal has been presented."

**30.** In sub-section (2) of section 51 of the said Act, for the words and figures "section 24, clause (a) and section 29," the words and figures "and section 24, clause (a)" shall be substituted.

Amendment of section  
51, Act XII of 1911.

**31.** In section 52 of the said Act, for the words and figures "section 28 and section 32," the words and figures "section 27, section 28 and section 31" shall be substituted.

Amendment of section  
52, Act XII of 1911.

**32.** For Schedules I and II to the said Act, the Schedule contained in Schedule I to this Act shall be substituted.

Amendment of Schedules  
to Act XII of 1911.

**33.** The provisions of the said Act specified in Schedule II are hereby repealed to the extent shown in the second column thereof.

Repeals,

## SCHEDULE I.

SCHEDULE TO BE SUBSTITUTED IN THE INDIAN  
FACTORIES ACT, 1911.

(See Section 32.)

"THE SCHEDULE.

(See Section 19B.)

## PART I.

1. Work at a furnace where the reduction or treatment of zinc or lead ores is carried on :

2. The manipulation, treatment, or reduction of ashes containing lead, the desilverising of lead or the melting of scrap lead or zinc :

3. The manufacture of solder or alloys containing more than ten per cent. of lead :

4. The manufacture of any oxide, carbonate, sulphate, chromate, acetate, nitrate, or silicate of lead :

5. Mixing or pasting in connection with the manufacture or repair of electric accumulators ;

6. The cleaning of work-rooms where any of the processes aforesaid are carried on.

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## PART II,

1. Where dust or fume from a lead compound is produced in the process, provision must be made for drawing the fume or dust away from the persons employed by means of an efficient exhaust draught so contrived as to operate on the dust or fume as nearly as may be at its point of origin ;

2. The person employed must undergo the prescribed medical examination at the prescribed intervals, and the prescribed record must be kept with respect to their health ;

3. No food, drink, or tobacco, shall be brought into, or consumed in, any room in which the process is carried on, and no person shall be allowed to remain in any such room during meal times ;

4. Adequate protective clothing in a clean condition shall be provided by the employer and worn by the persons employed ;

5. Such suitable cloak-room, mess-room and washing accommodation as may be prescribed shall be provided for the use of the persons employed ;

6. The rooms in which the persons are employed, and all tools and apparatus used by them, shall be kept in a clean condition."

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## SCHEDULE II.

(See section 33.)

### REPEALS.

Section 2	...	...	... Clause (4).
Section 22	...	...	... Sub-sections (2), (3) and (4).
Section 36	...	...	... Sub-section (4).
Section 38	...	...	... The words "from to time."
Section 55	...	...	... The whole.
Section 59	...	...	... Ditto.

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**ACT NO III OF 1922.**

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 9th February. 1922.)***An Act to amend the Benares Hindu University Act, 1915.**

WHEREAS it is expedient to amend the Benares Hindu University Act, 1915\* ; It is hereby enacted as follows :—

Short title.                      1. This Act may be called the Benares Hindu University (Amendment) Act, 1922.

Amendment of section 9, Act XVI of 1915.              2. For sub-section (2) of section 9 of the Benares Hindu University Act, 1915,\* the following shall be substituted, namely :

(2) No person not being a Hindu shall become or be appointed a member of any Court other than the first Court unless he has been a member of the first Court,"

**ACT NO. IV OF 1922.**

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 22nd February, 1922.)***An Act to repeal certain special enactments supplementing the ordinary criminal law.**

WHEREAS it is expedient that certain special enactments supplementing the ordinary criminal law should be repealed;

It is hereby enacted as follows:—

Short title.                      1. This Act may be called the Special Laws Repeal Act, 1922.

Extent.                      2. The repeal of any enactment by this Act shall have effect in every part of British India, including British Baluchistan, the Sonthal Parganas, the Shan States and the Hill District of Arakan, in which the enactment was in force at the date of the commencement of this Act, and any notification, made under any law for the time being in force, whereby any such enactment has been declared to be in force in, or applicable to, or has been extended to, any such part, shall on and from that date be deemed to have been cancelled in so far as it relates to that enactment.

Repeals.                      3. The enactment mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

\* XVI of 1915.



## THE SCHEDULE.

## ENACTMENTS REPEALED.

(See section 3.)

Year.	No.	Short title.	Extent of repeal.
<i>Madras and Bengal Regulations.</i>			
1804	X	The Bengal State Offence Regulation, 1804.	So much as has not been repealed.
1808	VII	The Madras State Offences Regulation, 1808.	So much as has not been repealed.
<i>Acts of the Governor General in Council.</i>			
1857	XI	The State Offences Act, 1857.	So much as has not been repealed.
"	XXV	The Forfeiture Act, 1857.	So much as has not been repealed.
1872	IV	The Punjab Laws Act 1872.	So much of the First Schedule as relates to the Bengal State Offences Regulation, 1804.
1874	XV	The Laws Local Extent Act, 1874.	So much of the First, Second, Fourth and Fifth Schedules as relates to the Bengal State Offences Regulation, 1804, the Madras State Offences Regulation, 1808, the State Offences Act, 1857. and the Forfeiture Act, 1857.
1875	XX	The Central Provinces Laws Act, 1875.	So much of the Schedule as relates to the Bengal State Offences Regulation, 1804.
1876	XVIII	The Oudh Laws Act, 1876.	So much of the Second Schedule as relates to the Bengal State Offences Regulation, 1804.
1891	XII	The Amending Act, 1891.	So much of the Second Schedule as relates to the Forfeiture Act, 1857.
1894	XIII	The Amending (Army) Act, 1894.	So much of the Second Schedule as relates to the Madras State Offences Regulation, 1808.
1897	V	The Amending Act, 1897.	So much of the Third Schedule as relates to the Bengal State Offences Regulation, 1804.

THE SCHEDULE—*contd.*ENACTMENTS REPEALED—*contd.*(See section 3)—*contd.*

Year.	No.	Short title.	Extent of Repeal.
<i>Acts of the Governor General in Council—contd.</i>			
1897	XIV	The Indian Short Titles Act, 1897.	So much of the Schedule as relates to the State Offences Act, 1857, and the Forfeiture Act, 1857.
•1898	XIII	The Burma Laws Act, 1898.	So much of the First Schedule as relates to the State Offences Act, 1857, and the Forfeiture Act, 1857.
1915	IV	The Defence of India (Criminal Law Amendment) Act, 1916.	The whole.
1916	II	The Defence of India (Amendment) Act, 1916.	The whole.
1919	XI	The Anarchical and Revolutionary Crimes Act, 1919.	The whole.
<i>Regulations by the Governor General in Council.</i>			
1872	III	The Sonthal Parganas Settlement Regulation, 1872.	So much of the Schedule as relates to the Bengal State Offences Regulation, 1804.
1877	III	The Ajmere Laws Regulations, 1877.	So much of the Second Schedule as relates to the Bengal State Offences Regulation, 1804.
1895	I	The Kachin Hill-tribes Regulation, 1895.	So much of the Schedule as relates to the State Offences Act, 1857.
1896	V	The Chin Hills Regulation, 1896.	So much of the Schedule as relates to the State Offences Act, 1857.
1901	VII	The North-West Frontier Province Law and Justice Regulation, 1901.	So much of the Second Schedule as relates to the Bengal State Offences Regulation, 1804.
1913	II	The British Baluchistan Laws Regulation, 1913.	So much of the First Schedule as relates to the State Offences Act, 1857.
1916	I	The Arakan Hill District Laws Regulation, 1916.	So much of the First Schedule as relates to the State Offences Act, 1857.

**ACT NO. VI OF 1922.**

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 1st March, 1922,)***An Act further to amend the Indian Lunacy Act, 1912.**

WHEREAS it is expedient further to amend the Indian Lunacy Act, 1912 ;\* It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Lunacy (Amendment) Act, 1922.

Amendment of section 3.  
Act IV of 1912.

2. In section 3 of the Indian Lunacy Act,\* (hereinafter referred to as the said Act)—

(a) in clause (1), after the word “asylum” where it occurs for the second time, the words “or mental hospital” shall be inserted ; and

(b) to clause (2) the following shall be added, namely :—

“together with any other charges specified in this behalf by the Governor General in Council, in exercise of any power conferred upon him by this Act.”

Amendment of section 84,  
Act IV of 1912.

3. To section 84 of the said Act, the following words shall be added, namely :—

“if it is satisfied that provision has been or will be made for the curative treatment therein of persons suffering from mental diseases.”

Insertion of new section  
84A in Act IV of 1912.

4. After section 84 of the said Act, the following section shall be inserted, namely :—

Power to cancel licence if  
provision for curative  
treatment is insufficient.

“84A. If in any licensed asylum no provision for curative treatment has been made, or the Local Government considers that the provision made is insufficient, the Local Government may require the person in charge of the asylum to take such measures for making or supplementing such provision as it may deem necessary, and, if such person does not comply with the requisition within a reasonable time, the Local Government may revoke the licence.”

Insertion of new sections  
89A and 89B. in Act IV  
of 1912.

5. After section 89 of the said Act. the following sections shall be inserted namely :—

Fixation of cost of main-  
tenance,

“89A. The Governor General in Council may, by general or special order, prescribe the amount payable on account of the cost of maintenance of lunatics detained in any asylum for the cost of whose maintenance any Local Government is liable, and the proportions in which such amount shall be payable respectively by the Local Governments so liable. Any such amount may include charges on account of the upkeep of the asylum and of the capital cost of the establishment of the asylum.

Incidence of costs of  
maintenance payable by  
Government-

89B. (1) When under the provisions of this Act the cost of the maintenance of a lunatic is payable by the Government, then such cost shall be payable—

- (a) in the case of a lunatic not domiciled in British India, by the Local Government of the province in which the reception order or the order under section 25, as the case may be, was made ; and
- (b) in the case of a lunatic domiciled in British India, by the Local Government of the province in which the lunatic has last resided for a period of five years before the reception order or the order under section 25, as the case may be, was made ; or, if the lunatic has not been resident in any one province for such period, by the Local Government of the province in which such order was made.

(2) If any question arises as to the incidence of the cost of maintenance of any lunatic under subsection (1). the question shall be referred to the Governor General in Council, and his decision thereon shall be final.’

## ACT NO. V OF 1922.

[PASSED BY THE INDIN LEGISLATURE.]

*(Received the assent of the Govenor General on the 22nd  
February, 1922.)*

**An Act to repeal certain provisions of the Indian Criminal  
Law Amendment Act, 1908.**

Whereas it is expedient that certain provisions of the Indian Criminal Law Amendment Act 1908\* should be repealed ; It is hereby enacted as follows :—

Short title.                      **1.** This Act may be called the Indian Criminal Law Amendment Repealing Act, 1922.

Extent,                      **2.** The repeal of an enactment by this Act shall have effect in every part of British India, including the Sonthal Parganas, in which the enactment was in force at the date of the commencement of this Act, and any notification, made under any law for the time being in force, whereby any such enactment has been declared to be in force in, or applicable to, or has been extended to any such part, shall on and from that date be deemed to have been cancelled in so far as it relates to that enactment.

Repeals,                      **3.** Sub-section (3) of section 1 and the whole of Part I of, and the Schedule to the Indian Criminal Law Amendment Act, 1908,\* and so much of the First Schedule to the Devolution Act, 1920,† as relates to sub-section (3) of section 1 and to sub-section (1) of section 2 of the Indian Criminal Law Amendment Act, 1908,\* are hereby repealed.

## ACT NO. VII OF 1922.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 5th March, 1922).*

### **An Act to amend the law relating to emigration.**

WHEREAS it is expedient to amend the law relating to emigration; It is hereby enacted as follows :—

#### CHAPTER I.

##### PRELIMINARY.

Short title and extent.                      **1.** (1) This Act may be called the Indian Emigration Act, 1922.

(2) It extends to the whole of British India.

Definitions.                      **2.** (1) In this Act, unless there is anything repugnant in the subject or context)—

(a) “dependent” means any woman or child who is related to an emigrant and any aged or incapacitated relative of an emigrant ;

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\* XIV of 1908.

† XXXVIII of 1920.

- (b) "emigrant" means any person who emigrates or has emigrated or who has been registered as an emigrant under this Act, and includes any dependent of an emigrant, but does not include—
- (i) any person emigrating to a country in which he has resided for not less than five years or the wife or child of such person, or
  - (ii) the wife or child of any person who has lawfully emigrated when such wife or child departs for the purpose of joining such person ;
- (c) "emigrate" and "emigration" mean the departure by sea out of British India of—
- (i) any person who departs under an agreement to work for hire in any country beyond the limits of India and
  - (ii) any person who is assisted to depart, otherwise than by a relative if he departs, for the purpose or with the intention of working for hire or engaging in agriculture in any country beyond the limits of India ;
- (d) "prescribe" means to prescribe by rules made under this Act ;
- (e) "work," with its grammatical variations means skilled or unskilled work ;
- (f) "skilled work" means—
- (i) working as an artisan ; or
  - (ii) working as a clerk or shop assistant; or
  - (iii) working for the purpose of any exhibition or entertainment; or
  - (iv) service in any restaurant, tea-house, or other place of public resort; or
  - (v) domestic service; or
  - (vi) any other occupation which the Governor General in Council may, by notification in the Gazette of India, declare to be skilled work ;
- (g) "unskilled work" includes engaging in agriculture.
- (2) In case of any doubt or dispute arising otherwise than in the course of any legal proceedings as to whether—
- (a) any person is an emigrant ; or
  - (b) any work is skilled or unskilled, or
  - (c) any person has been assisted otherwise than by a relative, within the meaning of this Act, the question shall be determined by such person and in such manner as the Local Government may prescribe, and such determination shall be final.

## CHAPTER II.

## PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

**3. (1)** Subject to the control of the Governor General in Council, the Local Government may appoint a person to be the Protector of Emigrants for any port situate within the territories administered by it from which emigration is lawful.

(2) Tho Local Government may define the area to which the authority of a Protector of Emigrants so appointed shall extend.

(3) Every Protector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

**4.** Every Protector of Emigrants, in addition to the special duties assigned to him by or under this Act, shall—

- (a) protect and aid with his advice all emigrants ;
- (b) cause, so far as he can, all the provisions of this Act and of the rules made thereunder to be complied with ;
- (c) inspect, at the time of arrival, to such extent and in such manner as the Local Government may prescribe, vessels bringing return emigrants to the port for which he is Protector ;
- (d) inquire into the treatment received by return emigrants both during the period of their residence in the country to which they emigrated, and also during the return voyage, and report thereon to the Local Government ;
- (e) aid and advise return emigrants so far as he reasonably can ; and
- (f) on being satisfied that any person intending to depart by sea out of British India, comes within one of the classes expressly excluded from the definition of emigrant in section 2, furnish such person with a certificate to the effect that such person is not an emigrant for the purpose of this Act.

**5. (1)** In any specified area where there is not a Protector of Emigrants, the Local Government, subject to the control of the Governor General in Council, may appoint any person to perform all or any of the duties of a Protector of Emigrants under this Act.

(2) Every person so appointed shall be public servant within the meaning of the Indian Penal Code.\*

Appointment of Medical Inspectors. **6. (1)** The Local Government may appoint one or more Medical Inspectors of Emigrants at any port from which emigration is lawful or at any other place, and, where more than one are appointed, may apportion their respective duties.

(2) Every Medical Inspector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.\*

Agents in foreign countries. **7.** The Governor General in Council may, for the purpose of safeguarding the interests of emigrants in any place outside British India, appoint persons to be agents in such places, and may define their powers and duties.

Advisory Committees. **8.** The Local Government may, for the purpose of assisting any Protector of Emigrants appointed by it or any person appointed by it under section 5, constitute an Advisory Committee in such manner as it may think fit, and may prescribe the procedure to be followed and the functions to be performed by such committee.

### CHAPTER III.

#### EMIGRATION FOR THE PURPOSE OF UNSKILLED WORK.

**9. (1)** Emigration, for the purpose of unskilled work, shall not be lawful except from the ports of Calcutta, Madras, Bombay, Karachi, Negapatam, Tuticorin and Dhanuskhodi and from such other ports as the Governor General in Council may, by notification in the Gazette of India, declare to be ports from which such emigration is lawful.

(2) The Local Government may, by notification in the local official Gazette, fix for the purposes of this Act the limits of any port from which such emigration is lawful.

**10. (1)** Emigration, for the purpose of unskilled work, shall not be lawful except to such countries and on such terms and conditions as the Governor General in Council, by notification in the Gazette of India may specify in this behalf.

(2) No notification shall be made under sub-section (1) unless it has been laid in draft before both Chambers of the Indian



Legislature and has been approved by a resolution of each Chamber, either without modification or addition, or with modifications and additions to which both Chambers agree, but, upon such approval being given, the notification may be issued in the form in which it has been so approved.

**11.** (1) Where the Governor General in Council has reason to believe that in any country to which emigration for the purpose of unskilled work is lawful plague or any other epidemic disease dangerous to human life has broken out, and that emigrants if allowed to emigrate to that country would be exposed to serious risk to life on arrival there, he may, by notification in the Gazette of India, declare that emigration to that country for the purpose of unskilled work shall cease to be lawful.

(2) Where a Local Government has reason to believe that such a state of affairs as is described in sub-section (1) exists in any country to which emigration for the purpose of unskilled work is lawful, it may, by notification in the local official Gazette, declare that emigration to that country for the purpose of unskilled work from any port in the territories administered by it shall cease to be lawful pending a reference to the Governor General in Council.

(3) The Local Government publishing a notification under sub-section (2) shall forthwith report such notification in the Gazette of India confirming or cancelling the notification published by the Local Government.

**12.** Where the Governor General in Council is satisfied that the ground on which a notification under sub-section (1) of section 11, or a notification under sub-section (3) of section 11 confirming a notification of a Local Government has been made with respect to any country, has ceased to exist, he may, by notification in the Gazette of India, declare that emigration to that country for the purpose of unskilled work shall again be lawful from a date to be specified in the notification.

**13.** (1) The Governor General in Council may by notification in the Gazette of India, prohibit, from a date, and for reasons, to be specified in the notification, all persons or any specified class of persons from emigrating to any specified country from the territories under the administration of any Local Government or any specified part thereof, for the purpose of unskilled work.

(2) Every notification issued under this section shall be laid before both Chambers of Indian Legislature as soon as may be after it is made.

**14.** A notification under section 10, section 11, section 12 or section 13 shall not affect any act done, offence committed; or legal proceeding commenced before the date on which such notification takes effect.

#### CHAPTER IV.

##### EMIGRATION FOR THE PURPOSE OF SKILLED WORK.

**15.** Emigration, for the purpose of skilled work, shall not be lawful except from a port from which emigration for the purpose of unskilled work is lawful and from such other ports as the Governor General in Council may, by notification in the Gazette of India, specify in this behalf.

**16.** (1) Whoever desires to engage, or to assist, any person to emigrate for the purpose of skilled work shall apply for the permission of the Local Government having jurisdiction at the port from which such person is to depart, and shall state in this application—

- (a) the number of persons whom he proposes so to engage or assist;
- (b) the place beyond the limits of India to which each such person and his dependents are to proceed;
- (c) the accommodation to be provided for each such person and his dependents until their departure out of India and during the voyage.

(2) Whoever desires to engage any person for the purpose described in sub-section (1) shall, in addition to the information which he is required by that sub-section to supply in his application, further state therein—

- (a) the provision to be made for the health and well-being of such person and his dependents during the period of the proposed engagement and for their repatriation at the end of such period ;
- (b) the terms of the agreement under which such person is to be engaged;
- (c) the security in British India which he proposes to furnish for the due observance of such agreement and for the proper treatment of the person to be engaged and his dependents.

**17.** On receiving an application under section 16, the Local Government may, after such inquiry as it may deem necessary, grant the permission applied for on such terms and conditions (if any) and on payment of such fees (if any) as it things fit or withhold such permission, and the decision of the Local Government shall be final.

**18.** (1) Before any person departs from British India in accordance with permission granted under section 17, the person by whom he has been engaged or assisted shall appear in person or by his duly authorised agent before the Protector of Emigrants at the port of embarkation with such first-mentioned person and with any persons intending to accompany him as his dependents.

(2) If it appears to the Protectors of Emigrants—

(a) that permission to engage or assist such person has been duly obtained,

(b) in the case of an engagement, that the terms of the agreement under which such person has been engaged are in accordance with the terms of the permission granted and are understood by him, and

(c) that the conditions on which the permission was granted have been complied with,

he shall register in a book to be kept for the purpose such particulars concerning the person engaged or assisted and his dependents (if any) and concerning the person engaging or assisting him and in such form, as the Local Government may prescribe.

**19.** Where such security as is referred to in sub-section (2) of section 16 has been furnished, the Local Government may, at any time after making such inquiry as it may deem necessary, pass orders in regard to the forfeiture of the security in whole or in part and the application of the same or any part thereof, and, on the expiry of the period to which the agreement relates and on being satisfied that that no ground exists for forfeiting the security in whole or in part, order the return of the security or of any part thereof to the person by whom it was furnished or to his representative.

**20.** The Local Government may, by notification in the local official Gazette, authorise a Protector of Emigrants to receive and dispose of applications made under this Chapter:

Applications how to be disposed.

Appearance of engaged persons before, and registration of names by, Protector of Emigrants.

Provisions as to security.

Delegation to Protector of Emigrants of authority to receive or dispose of applications.

Provided that an appeal shall lie to the Local Government from every order passed by a Protector of Emigrants in exercise of the authority so conferred.

**21. (1)** Where the Governor General in Council has reason to believe that sufficient grounds exist for prohibiting emigration of skilled workers to any country, he may, by notification in the Gazette of India, declare that such emigration to that country shall cease to be lawful from a date specified in the notification; and from that date such emigration to that country shall accordingly cease to be lawful.

(2) Every notification issued under this section shall be laid before both Chambers of the Indian Legislature as soon as may be after it is made.

**22.** Nothing in this Chapter shall apply in any case in which a person engages another to accompany him out of India as his personal domestic servant.

## CHAPTER V.

### RULES.

**23.** Subject to the control of the Governor General in Council, the Local Government may, by notification in the local official Gazette, make rules consistent with this Act to prescribe the person by whom any doubt or dispute referred to in sub-section (2) of section 2 shall be determined and the procedure to be followed and the proof to be required in such cases, and to provide for any other matter which the Local Government is by this Act empowered to prescribe.

**24. (1)** The Governor General in Council may, by notification in the Gazette of India, and after previous publication, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the powers and duties of the several officers appointed by the Governor General in Council under this Act ;

(b) the licensing, supervision and control of all persons employed in British India in connection with the inducement of persons to emigrate and with the conveyance and accommodation of persons so induced ;

- (c) the establishment, supervision and regulation of any places of accommodation provided for emigrants and for their medical care while resident there ;
- (d) the forms to be maintained and the returns to be submitted by persons licensed in accordance with rules framed under clause (b) ;
- (e) the information to be furnished by persons licensed in accordance with rules framed under clause (b) to emigrants and the language in which such information is to be furnished ;
- (f) the production and examination of emigrants before District Magistrates or such other authorities as may be appointed in this behalf ;
- (g) the age below which persons of either sex may not emigrate except as dependents ;
- (h) the accommodation, the provisions, fuel and other necessities, the medical stores and staff, the life-saving and sanitary arrangements, and the records to be maintained on any ship specially chartered for the transport of emigrants :
- (i) the reception and the despatch to their homes of return emigrants ;
- (j) the fees, if any, payable by Emigration Agents to Protectors of Emigrants for each emigrant departing from India ; and
- (k) generally, the security, well-being and protection of emigrants both up to the date of their actual departure from India and on their return to India.

## CHAPTER VI.

### OFFENCES

Unlawful emigration or inducement to emigrate.

**25.** (1) Whoever, except in conformity with provisions of this Act or of the rules made under this Act, emigrates or attempts to emigrate shall be punishable with fine which may extend to fifty rupees.

(2) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act,—

- (a) makes, or attempts to make, any agreement with any person purporting to bind that person, or any other person, to emigrate, or
- (b) induces, or attempts to induce, any person to emigrate or to attempt to emigrate or to leave any place for the purpose of emigrating, or

- (c) causes any person engaged or assisted by him, after grant of the permission referred to in section 17, to depart by sea out of British India without registration of the particulars required by sub-section (2) of section 18,

shall be punishable with fine, which may extend to five hundred rupees.

(3) If any person commits an offence under this section, any police-officer may arrest him without warrant.

**26.** Whoever, by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any person to emigrate, or enter into any agreement to emigrate, or leave any place with a view to emigrating, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

**27.** Whoever falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government shall be punishable with imprisonment for a term which may extend to six months, or with fine, which may extend to five hundred rupees, or with both.

**28.** No prosecution shall be instituted for any offence under this Chapter except with the sanction of a Protector of Emigrants or of a person appointed under section 5 and empowered in this behalf or, where there is no Protector or person so appointed and empowered, of the District Magistrate :

Provided that no sanction shall be required when an offence has been committed in respect of an emigrant or an intended emigrant and the complaint is filed by such emigrant, or intended emigrant or, on behalf of such emigrant or intended emigrant, by the father, mother, husband, wife or guardian of such emigrant or intended emigrant or, if such emigrant or intended emigrant is a member of a joint Hindu family, by the manager of that family.

**29.** All the powers for the time being conferred by law on officers of sea-customs with regard to the searching and detention of vessels or otherwise for the prevention of smuggling on board thereof, may be exercised by those officers for the prevention of offences against this Act.

## CHAPTER VII.

## SUPPLEMENTAL.

Prohibition of departure by land under an agreement to work for

work for hire, or when assisted,

hire in some country beyond the sea.

**30.** (1) The departure by land out of British India of any person under, or with a view to entering into, an agreement to otherwise than by a relative, so to depart for the purpose or with the intention of working for hire or engaging in agriculture, in any country beyond the sea, is prohibited.

(2) Whoever departs, or attempts to depart, by land out of British India in contravention of this section, shall be deemed to have committed an offence under sub-section (1) of section 25.

(3) Whoever induces, or attempts to induce, any person to depart by land out of British India in contravention of this section shall be deemed to have committed an offence under sub-section (2) of section 25.

## CHAPTER VIII.

## SAVINGS AND REPEAL.

Application of Act.

British India of—

**31.** Nothing in this Act shall be deemed to apply to the departure out of

(i) any person who is neither of Indian parentage nor a subject of a State in India, or

(ii) any person enrolled under the Indian Army Act,\* 1911,

Saving.

**32.** Notwithstanding any thing contained in this Act, the provisions of this Act shall not apply for a period of twelve months from the date of the commencement of this Act to persons emigrating to Ceylon, the Straits Settlements or any protected Native State adjoining the Straits Settlements.

Repeal.

**33.** The Indian Emigration Act, 1908, is hereby repealed.

\* VIII of 1911.

† XVII of 1908.

**ACT NO. VIII OF 1922.**

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 5th March, 1922.)*

**An Act to establish and incorporate a unitary teaching and residential University at Delhi.**

Whereas it is expedient to establish and incorporate a unitary teaching and residential University at Delhi; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Delhi University Act, 1922.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, direct.

Definitions.

2. In this Act and in the Statutes, unless there is anything repugnant in the subject or context,—

- (a) “ College ” means an institution maintained or recognized by the University in accordance with the provisions of this Act, in which instruction is provided under conditions prescribed in the Statutes, and in which provision is made for residence of students of the University ;
- (b) “ Hall ” means a unit of residence for students of the University maintained or recognized by the University in accordance with the provisions of this Act;
- (c) “ Patron of the University ” means a person who has made a donation of not less than one lakh of rupees to the funds of the University, and has been declared by the Chancellor to be a Patron of the University ;
- (d) “ Principal ” means the head of a College;
- (e) “ registered graduate ” means a graduate registered under the provisions of this Act ;
- (f) “ Statutes,” “ Ordinances ” and “ Regulations ” mean, respectively, the Statutes, Ordinances and Regulations of the University made under this Act;
- (g) “ teachers ” includes Professor, Readers, Lecturers and other persons imparting instruction in the University or in any College or Hall ;
- (h) “ teachers of the University ” means persons appointed or recognized by the University under the provisions of



this Act for the purpose of imparting instruction in the University or any College ;

(i) " University " means the University of Delhi ;  
and

(i) " Warden " means the head of a Hall.

### *The University.*

The University.

**3.** (1) The first Chancellor and the first Vice-Chancellor of the University and the first members of the Court, the Executive Council and the Academic Council and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of " the University of Delhi."

(2) The University shall have perpetual succession and a Common Seal, and shall sue and be sued by the said name.

Powers of the University.

**4.** The University shall have the following powers, namely :—

(1) to provide for instruction in such branches of learning as the University may think fit, and to make provision for research and for the advancement and dissemination of knowledge,

(2) to hold examinations and to grant to, and confer degrees and other academic distinctions on, persons who—

(a) have pursued a course of study in the University, or

(b) are teachers in educational institutions,

under conditions laid down in the Ordinances and Regulations, and have passed the examinations of the University under like conditions,

(3) to confer honorary degrees or other distinctions on approved persons in the manner laid down in the Statutes,

(4) to grant such diplomas to, and to provide such lectures and instruction for persons not being members of the University, as the University may determine,

(5) to co-operate with other University and authorities in such manner and for such purposes as the University may determine,

(6) institute Professorships, Readerships, Lecturerships and any other teaching posts required by the University,

(7) to appoint or recognize person as Professors, Readers or Lecturers, or otherwise as teachers of the University,

(8) to institute and award Fellowships, Scholarships, Exhibitions and Prizes in accordance with the Statutes and the Regulation,

(9) to maintain Colleges and Halls to recognize Colleges and Halls not maintained by the University, and to withdraw such recognition,

(10) to demand and receive payment of such fees and other charges as may be authorised by the Ordinances,

(11) to supervise and control the residence and discipline of students of the University, and to make arrangement for promoting their health and general welfare.

(12) to make grants from the funds of the University for the maintenance of the University corps of the Indian Territorial Force, and

(13) to do all such other acts and things, whether incidental to the powers aforesaid or not, as may be requisite in order to further the objects of the University as a teaching and examining body, and to cultivate and promote arts, science and other branches of learning.

**5.** (1) Save as otherwise provided in this Act, the powers of the University conferred by or under this Act shall not extend beyond a radius of 10 miles from the Convocation Hall of the University, and, notwithstanding anything in any other law for the time being in force, no educational institution beyond that limit shall be associated with or admitted to any privileges of the University :

Provided that nothing in this sub-section shall apply to any agricultural or other technical institution established or maintained in connection with the University with the sanction of the Governor General in Council.

(2) Notwithstanding anything in any other law for the time being in force, no educational institution within the afore-mentioned limit shall be associated in any way with or be admitted to any privileges of any other University incorporated by law in British India, and any such privileges granted by any such other University to any educational institution within that limit prior to the commencement of this Act shall be deemed to be withdrawn on the commencement of this Act :

Provided that the Governor General in Council may, by order in writing, direct that the provisions of this sub-section shall not apply in this case of any institution specified in the order.

**6.** The University shall be open to all persons of either sex and of whatever race, creed or class, and it shall not be lawful for the University to adopt or impose on any person any test whatsoever of religious belief or profession in order to entitle him to be admitted thereto as a teacher or student, or to hold any

University open to all classes, castes and creeds.

office therein, or to graduate thereat, or to enjoy or exercise any privilege thereof, except where such test is specially prescribed by the Statutes, or, in respect of any particular benefaction accepted by the University, where such test is made a condition thereof by any testamentary or other instrument creating such benefaction :

Provided that nothing in this section shall be deemed to prevent religious instruction being given in the manner prescribed by the Ordinances to those not unwilling to receive it by persons (whether teachers of the University or not) approved for that purpose by the Executive Council.

7. (1) All recognized teaching in connection with the University courses shall be conducted under the control of the Academic Council by teachers of the University, and shall include lecturing laboratory work and other teaching conducted in accordance with any syllabus prescribed by the Regulations.

(2) Every teacher of the University shall be attached to a College, and at least one such teacher shall be attached to each College.

(3) The authorities responsible for organizing such teaching shall be prescribed by the Statutes.

(4) The courses and curricula shall be prescribed by the Ordinances and, subject thereto, by the Regulations.

(5) Save as otherwise expressly provided by this Act, it shall not be lawful for the University or any College to maintain classes, after the expiration of five years from the commencement of this Act, for the purpose of preparing students for admission to the University save with the sanction of the Governor General in Council and during such period as he may direct, or at any time to frame courses, conduct examinations or recognise institutions for the purpose of preparing or testing students for admission to the University save with such sanction and during such period.

#### *Officers of the University.*

8. The following shall be the officers of the University :—

- I—The Chancellor,
- II—the Pro-Chancellor,
- III—the Vice-Chancellor,
- IV—the Rector,
- V—the Treasurer,
- VI—the Registrar,
- VII—the Deans of the Faculties, and
- VIII—such other persons in the service of the University as may be declared by the Statutes to be officers of the University.

**9. (1)** The Chancellor shall be the Governor General. He shall by virtue of his office be the head of the University and the President of the Court, and shall, when present, preside at meetings of the Court and at any Convocation of the University.

(2) The Chancellor shall have the right to cause an inspection to be made, by such person or persons as he may direct, of the University: its buildings, laboratories, equipment, and of any institutions associated with the University, and also of the examinations, teaching and other work conducted or done by the University, and to cause an inquiry to be made in like manner in respect of any matter connected with the University. The Chancellor shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made, and the University shall be entitled to be represented thereat.

(3) The Chancellor may address the Vice-Chancellor with reference to the results of such inspection or inquiry, and the Vice-Chancellor shall communicate to the Executive Council the views of the Chancellor and shall, after ascertaining, if he so thinks fit, the opinion of the Executive Council thereon, advise the University upon the action to be taken thereon.

(4) The Executive Council shall report to the Vice-Chancellor for communication to the Chancellor such action, if any, as it is proposed to take or has been taken upon the results of such inspection or inquiry.

(5) The Chancellor shall have such other powers as may be conferred on him by this Act or the Statutes.

(6) Every proposal for the conferment of an honorary degree shall be subject to the confirmation of the Chancellor.

**10.** The Pro-Chancellor shall be appointed by the Chancellor and shall hold office for three years. He shall when present, in the absence of the Chancellor, preside at meetings of the Court and at any Convocation of the University.

**11. (1)** The Vice-Chancellor shall be appointed by the Chancellor after consideration of the recommendations of the Executive Council, and shall hold office for such term and subject to such conditions as may be prescribed by the Statutes.

(2) Where any temporary vacancy in the office of the Vice-Chancellor occurs by reason of leave, illness or other cause, the Executive Council shall forthwith report the same to the Chancellor, who shall make such arrangements for carrying on the office of the Vice-Chancellor as he may think fit,

Powers and duties of the  
Vice-Chancellor.

**12. (1)** The Vice-Chancellor shall be the principal executive and academic officer of the University, and shall in the absence of the Chancellor and the Pro Chancellor, preside at meetings of the Court and at any Convocation of the University. He shall be an *ex-officio* member and Chairman of the Executive Council and of the Academic Council and shall be entitled to be present and to speak at any meeting of any authority or other body of the University, but shall not be entitled to vote thereat unless he is a member of the authority or body concerned.

(2) It shall be the duty of the Vice Chancellor to see that this Act, the Statutes and the Ordinances are faithfully observed, and he shall have all powers necessary for this purpose.

(3) The Vice-Chancellor shall have power to convene meetings of the Court, the Executive Council and the Academic Council.

(4) (a) In any emergency which, in the opinion of the Vice-Chancellor, requires that immediate action should be taken, the Vice-Chancellor shall take such action as he deems necessary, and shall, at the earliest opportunity thereafter, report his action to the officer, authority or other body who or which in the ordinary course would have dealt with the matter.

(b) When action taken by the Vice-Chancellor under clause (a) affects any person in the service of the University' such person shall be entitled to prefer an appeal to the Executive Council through the said officer, authority or other body within fifteen days from the date on which such action is communicated to him.

(5) The Vice-Chancellor shall give effect to any order of the Executive Council regarding the appointment, dismissal or suspension of an officer or teacher of the University, or regarding the recognition or withdrawal of the recognition of any such teacher, and shall exercise general control in the University. He shall be responsible for the discipline of the University in accordance with this Act, the Statutes and the Ordinances.

(6) The Vice-Chancellor shall exercise such other powers as may be prescribed by the Statutes and the Ordinances.

**13.** The Chancellor may appoint a Rector who shall hold office for such term and subject to such conditions, and shall exercise such powers, and perform such duties, of the Vice-Chancellor, as the Chancellor, after consultation with the Vice-Chancellor, may direct.

The Rector.

**14.** The Treasurer shall be appointed by the Chancellor after consideration of the recommendations of the Executive Council upon such conditions and for such period, and shall receive such remuneration (if any)

The Treasurer.

as the Executive Council shall deem fit. He shall be an *ex-officio* member of the Executive Council and shall—

- (1) exercise general supervision over the funds of the University, and advise in regard to its financial policy ;
- (2) subject to the control of the Executive Council, manage the property and investments of the University, and be responsible for the presentation of the annual estimates and statements of accounts ;
- (3) subject to the powers of the Executive Council, be responsible for seeing that all monies are expended on the purpose for which they are granted or allotted ;
- (4) sign all contracts made on behalf of the University ; and
- (5) exercise such other powers as may be prescribed by the Statutes and the Ordinances :

Provided that the Chancellor may, on the recommendation of of the Executive Council, in the case of any vacancy in the office of the Treasurer, whether permanent or otherwise, direct that the Registrar shall act as the Treasurer and perform all the duties and exercise all the powers of the Treasurer, and when any such direction has been made references to the Treasurer in this Act and the Statutes, Ordinances and Regulations shall be deemed to be references to the Registrar.

**15.** The Registrar shall act as Secretary of the Court, the Executive Council and the Academic Council. He shall maintain a register of registered graduates in accordance with the Statutes, and shall exercise such other powers as may be prescribed by the Statutes and the Ordinances.

**16.** The powers of officers of the University other than the Chancellor, the Pro-Chancellor, the Vice-Chancellor, the Rector, the Treasurer and the Registrar shall be prescribed by the Statutes and the Ordinances.

### *Authorities of the University.*

**17.** The following shall be the authorities of the University :—

- (I) The Court,
- (II) the Executive Council,
- (III) the Academic Council,
- (IV) the Faculties, and
- (V) such other authorities as may be declared by the Statutes to be authorities of the University.

The Court. **18. (1)** The Court shall consist of the following persons, namely :—

*Class I.—Ex-officio members.*

- (i) The Chancellor,
- (ii) the Pro-Chancellor,
- (iii) the Vice-Chancellor,
- (iv) the Rector,
- (v) the Treasurer,
- (vi) the Registrar,
- (vii) the Principals,
- (viii) the Professors and Readers of the University, and
- (ix) such other *ex-officio* members as may be prescribed by the Statutes.

*Class II.—Life members.*

- (x) The Patrons of the University and persons (if any) appointed by the Chancellor on the recommendation of the Executive Council to be life members on the ground that they have rendered great services to education or have made substantial donations to the University.

*Class III.—Other members.*

- (xi) Graduates of the University elected by the registered graduates from among their own body,
- (xii) persons elected from among their own body by the teachers who are not Professors or Readers of the University,
- (xiii) persons elected by associations or other bodies approved in this behalf by the Chancellor on the recommendation of the Court,
- (xiv) persons elected by the elected members of the Council of State and the Legislative Assembly from among their own number,
- (xv) persons appointed by the Chancellor, and
- (xvi) a representative of the Governing Body of each College, elected or nominated by that Body.

(2) The number of member to be elected or appointed under clauses (xi), (xii), (xiii), (xiv) and (xv), and the tenure of office of members to be elected or appointed under each clause of Class III, shall be prescribed by the Statutes, and the mode of election of members to be elected under clauses (xi) and (xii) shall be prescribed by the Ordinances,

**19. (1)** The Court shall, on a date to be fixed by the Vice-Chancellor, meet once a year at a meeting to be called the annual meeting of the Court.

(2) The Vice-Chancellor may, whenever he thinks fit, and shall upon a requisition in writing signed by not less than thirty members of the Court, convene a special meeting of the Court.

**20** Subject to the provisions of this Act, the Court shall exercise the following powers and perform the following duties, namely :—

- (a) of making Statutes, and of amending or repealing the same,
- (b) of considering and cancelling Ordinances, and
- (c) of considering and passing resolutions on the annual report, the annual accounts and the financial estimates, and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes.

**21.** The Executive Council shall be the executive body of the University, and its constitution and the terms of office of its members, other than *ex-officio* members, shall be prescribed by the Statutes.

Powers and duties of the Executive Council.

**22.** The executive Council—

- (a) shall hold, control and administer the property and funds of the University, and for these purposes shall appoint a Finance Committee to advise it on matters of finance. The Treasurer shall be the Chairman of the Committee, and the remaining members shall be appointed from among the members of the Executive Council, provided that at least one member of the Committee shall be a member elected to the Executive Council by the Court ;
- (b) shall determine the form, provided for custody and regulate the use of the Common Seal of the University ;
- (c) shall lay before the Governor General in Council annually a full statement of the financial requirements of the University and the Colleges ;
- (d) shall administer any funds placed at the disposal of the University for specific purposes ;
- (e) subject to the provisions of this Act and the Statutes, shall appoint the officers (other than the Chancellor, the Pro-Chancellor, the Vice-Chancellor, the Rector and the Treasurer), teachers, clerical staff and servants of the University, and shall define their duties and the conditions of their service,



and shall provide for the filling of temporary vacancies in their posts;

- (f) shall have power to accept on behalf of the University transfers of any moveable or immoveable property ;
- (g) shall arrange for the holding of, and publish the results of, the University examinations ;
- (h) shall, subject to the powers conferred by this Act on the Vice-chancellor, regulate and determine all matters concerning the University, in accordance with this Act, the Statutes and the Ordinances :  
provided that no action shall be taken by the Executive Council in respect of the appointment or emoluments of examiners, or the number, qualifications or emoluments of teachers otherwise than on a recommendation of the Academic Council ; and
- (i) shall exercise all other powers of the University, not otherwise provided for by this Act or the Statutes.

**23.** The Academic Council shall be the academic body of the University, and shall subject to the provisions of this Act, the Statutes and the Ordinances, have the control and general regulation, and be responsible for the maintenance, of standards of instruction, education and examination within the University, and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes. It shall have the right to advise the Executive Council on all academic matters. The constitution of the Academic Council and the term of office of its members, other than *ex-officio* members, shall be prescribed by the Statutes.

**24.** (1) Provision shall be made, as soon as possible after the commencement of this Act, for the inclusion in the University of the Faculties of Arts, Science, Medicine, Commerce, Technology and Indian Fine Arts (including Music) ; and such other Faculties shall be included in the University (whether by the sub-division or combination of an existing Faculty or Faculties, or by the creation of a new Faculty or otherwise) as may be prescribed by the Statutes. Each Faculty shall, subject to the control of the Academic Council, have charge of the teaching and the courses of study and the research work in such subjects as may be assigned to such Faculty by the Ordinances.

(2) The constitution and powers of the Faculties shall be prescribed by the Statutes.

(3) There shall be a Dean of each Faculty, who shall be responsible for the due observance of the Statutes, Ordinances and Regulations relating to the Faculty,

(4) Each Faculty shall comprise such Departments of teaching as may be prescribed by the Ordinances. The head of every such Department shall be the Professor of the Department or, if there is no Professor, the Reader. If there is more than one Professor or more than one Reader of a Department, the Vice-Chancellor shall appoint to be head of the Department such one of the Professors or, if there is no Professor, such one of the Readers as he thinks fit. The head of the Department shall be responsible to the Dean for the organization of the teaching in that Department

(5) The Dean of a Faculty shall be elected by the Faculty from among the heads of Departments of the Faculty, and shall hold office as Dean for such term as may be prescribed by the Statutes.

Other authorities of the University. **25.** The constitution, powers and duties of such other authorities as may be declared by the Statutes to be authorities of the University shall be provided for in the manner prescribed by the Statutes.

#### *University Boards,*

University Boards. **26.** The University shall include a Residence, Health and Discipline Board and such other Boards as may be prescribed by the Statutes.

Constitution, etc., of Boards to be prescribed by Ordinances. **27.** The constitution, powers and duties of the Residence, Health and Discipline Board and of all other Boards of the University shall be prescribed by the Ordinances.

#### *Statutes, Ordinances and Regulations.*

**28.** Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

- (a) the conferment of honorary degrees ;
- (b) the institution of Fellowships, Scholarships, Exhibitions and Prizes ;
- (c) the term of office and conditions of service of the Vice-Chancellor ;
- (d) the designations and powers of the officers of the University ;
- (e) the constitution, powers and duties of the authorities of the University ;
- (f) the institution of Colleges and Halls and their maintenance ;

- (g) the recognition and management of Colleges and Halls not maintained by the University, and the withdrawal of such recognition;
- (h) the mode of appointment and recognition of teachers of the University,
- (i) the constitution of pension insurance and provident funds for the benefit of the officers, teachers, clerical staff and servants of the University,
- (j) the maintenance of a Register of Registered graduates ; and
- (k) all matters which by this Act are to be or may be prescribed by the Statutes.

Statutes how made.

**29.** (1) The first Statutes shall be those set out in the Schedule.

(2) The Statutes may be amended, repealed or added to by Statutes made by the Court in the manner hereinafter appearing.

(3) The Executive Council may propose to the Court the draft of any Statute to be passed by the Court. Such draft shall be considered by the Court at its next meeting. The Court may pass the Statute, or a part of it, in the form in which it has been proposed, or may reject the Statute or part of it, or may return the Statute to the Executive Council for reconsideration either in whole or in part, together with any amendments which the Court may suggest,

(4) Where any Statute or part of a Statute has been returned to the Executive Council for reconsideration and there is disagreement between the Court and the Executive Council in relation thereto, the matter shall be referred for decision to the Governor General in Council, whose decision shall be final.

(5) Where any statute has been passed or a draft of a Statute or part thereof has been rejected by the Court, it shall be submitted to the Governor General in Council, who may refer the Statute or draft back to the Court for further consideration or, in the case of a Statute passed by the Court, assent thereto or withhold his assent. A Statute passed by the Court shall have no validity until it has been assented to by the Governor General in Council.

(6) The Executive Council shall not propose the draft of any Statute affecting the Status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion upon the proposal. Any opinion so expressed shall be in writing and shall be considered by the Court, and shall be submitted to the Governor General in Council.

(7) Any member of the court may propose to the Court the draft of any Statute and the Court may refer such draft for consideration to the Executive council, which may either reject the proposal or submit the draft to the Court in such form as the Executive Council may approve, and the provisions of this section shall apply in the case of any draft so submitted as they apply in the case of a draft proposed to the Court by the executive Council,

**30.** Subject to the provisions of this Ordinance. Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely :—

- (a) the admission of students to the University and their enrolment as such ;
- (b) the courses of study to be laid down for all degrees and diplomas of the University ;
- (c) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the University and shall be eligible for degrees and diplomas ;
- (d) the conditions of residence of the student of the University ;
- (e) the emoluments and conditions of service of teachers of the University ;
- (f) the fees to be charged for courses of study in the University and for admission to the examinations, degrees, and diplomas of the University ;
- (g) the giving of religious instruction ;
- (h) the formation of Departments of teaching in the Faculties ;
- (i) the constitution, powers and duties of the Boards of the University ;
- (j) the conduct of examinations ; and
- (k) all matters which by this Act or the Statutes are to be or may be provided for by the Ordinances.

**31.** (1) Save as otherwise provided in this section, Ordinances shall be made by the Executive Council:

Provided that—

- (i) no Ordinance shall be made affecting the conditions of residence of students, except after consultation with the Residence, Health and Discipline Board, and
- (ii) no Ordinance shall be made—

- (a) affecting the admission or enrolment of students, or prescribing examinations to be recognized as equivalent to the University examinations or prescribing the further qualification mentioned in subsection (2) of section 36 for admission to the degree courses of the University, or
- (b) affecting the conditions, mode of appointment or duties of examiners or the conduct or standard of examinations or any course of study,

unless a draft of such Ordinance has been proposed by the Academic Council

(2) The Executive Council shall not have power to amend any draft proposed by the Academic Council under the provisions of sub-section (1), but may reject it or return it to the Academic Council for reconsideration, either in whole or in part, together with any amendments which the Executive Council may suggest.

(3) All Ordinances made by the Executive Council shall be submitted, as soon as may be, to the Governor General in Council and the Court, and shall be considered by the Court at its next meeting. The Court shall have power, by a resolution passed by a majority of not less than two-thirds of the members voting, to cancel any Ordinance made by the Executive Council, and such Ordinance shall, from the date of such resolution, be void.

(4) The Governor General in Council may, at any time after any Ordinance has been considered by the Court, signify to the Executive Council his disallowance of such Ordinance, and, from the date of receipt by the Executive Council of intimation of such disallowance, such Ordinance shall become void.

(5) The Governor General in Council may direct that the operation of any Ordinance shall be suspended until he has had an opportunity of exercising his power of disallowance. An order of suspension under this sub-section shall cease to have effect on the expiration of one month from the date of such order or on the expiration of fifteen days from the date of consideration of the Ordinance by the Court, whichever period expires later.

(6) Where the Executive Council has rejected the draft of an Ordinance proposed by the Academic Council, the Academic Council may appeal to the Governor General in Council who may, if he approves the draft, make the Ordinance. An Ordinance made under this sub-section shall cease to have effect on the expiration of six months from the making thereof.

**32.** (1) The authorities and the Boards of the University may  
 Regulations.                      make Regulations consistent with this Act,  
    the Statutes and the Ordinances—

- (a) laying down the procedure to be observed at their meetings and the number of members required to form a quorum ;

(b) providing for all matters which by this Act, the Statutes or the Ordinances are to be prescribed by Regulations ; and

(c) providing for all other matters solely concerning such authorities and Boards and not provided for by this Act, the Statutes or the Ordinances,

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meetings and of the business to be considered at meetings, and for the keeping of a record of the proceedings of meetings.

(3) The Executive Council may direct the amendment, in such manner as it may specify, of any Regulation made under this section or the annulment of any Regulation made under subsection (1) :

Provided that any authority or Board of the University which is dissatisfied with any such direction may appeal to the Governor General in Council, whose decision in the matter shall be final.

#### *Residence.*

**33.** Every student of the University shall reside in a College or a Hall, or under such conditions as may be prescribed by the Statutes and the Ordinances.

Residence.

Colleges.

**34:** (1) The Colleges shall be such as may be named in the Statutes.

(2) The conditions of residence in the Colleges shall be prescribed by the Ordinances, and every College shall be subject to inspection by any member of the Residence, Health and Discipline Board authorized in this behalf by the Board and by any officer of the University authorized in this behalf by the Executive Council.

**35.** (1) The Halls shall be such as may be maintained by the University or approved and recognised by the Executive Council on such general or special conditions as may be prescribed by the Ordinances

Halls.

(2) The Wardens and superintending staff of the Halls shall be appointed in the manner prescribed by the Statutes,

(3) The conditions of residence in the Halls shall be prescribed by the Ordinances, and every Hall shall be subject to inspection by any member of the Residence, Health and Discipline Board authorized in this behalf by the Board and by any officer of the University or other person authorized in this behalf by the Executive Council.

(4) The Executive Council shall have power to suspend or withdraw the recognition of any Hall which is not conducted in accordance with the conditions prescribed by the Ordinances.

*Admission and Examinations.*

**36.** (1) Admission of students to the University shall be made by an admission committee (including at least one Principal) appointed for that purpose by the Academic Council.

Admission to University courses.

(2) Students shall not be eligible for admission to a course of study for a degree unless they have passed the Intermediate Examination of an Indian University incorporated by any law for the time being in force, or an examination recognized in accordance with the provisions of this section as equivalent thereto, and possess such further qualifications as may be prescribed by the Ordinances. Any such qualification may be tested by examination notwithstanding anything contained in subsection (5) of section 7 :

Provided that, during a period of five years from the commencement of this Act and such further period as the Governor General in Council may direct, any student who has passed a Matriculation Examination of any such University, or any examination recognised in accordance with the provisions of this section as equivalent thereto, may be deemed eligible for admission to the University.

(3) The conditions under which students may be admitted to the diploma courses of the University shall be prescribed by the Ordinances.

(4) The University shall not, save with the previous sanction of the Governor General in Council, recognize (for the purposes of admission to a course of study for a degree), as equivalent to its own degrees, any degree conferred by any other University, or, as equivalent to the Intermediate or Matriculation Examination of an Indian University, any examination conducted by any other authority.

**37.** (1) Subject to the provisions of this Act and of the Statutes, all arrangements for the conduct of examinations shall be made by the Academic Council in such manner as may be prescribed by this Act and the Ordinances.

Examinations.

(2) If, during the course of an examination, any examiner is for any cause incapable of acting as such, the Vice-Chancellor shall appoint an examiner to fill the vacancy, and shall report the appointment to the Executive Council,

(3) At least one examiner who is not a member of the University shall be appointed for each subject included in a Department of teaching and forming part of the course which is required for a University degree.

(4) The Academic Council shall appoint examination committees, consisting of members of its own body or of other persons or of both, as it thinks fit, to moderate examination questions, to moderate and prepare the results of the examinations and to report such results to the Executive Council for publication.

### *Annual Reports and Accounts.*

**38.** The annual report of the University shall be prepared under the direction of the Executive Council and shall be submitted to the Court on or before such date as may be prescribed by the Statutes, and shall be considered by the Court at its annual meeting. The Court may pass resolutions thereon and communicate the same to the Executive Council.

**39.** (1) The annual accounts and balance-sheet of the University shall be prepared under the direction of the Executive Council, and shall be submitted to the Governor General in Council for the purposes of audit.

(2) The accounts when audited shall be published by the Executive Council in the Gazette of India, and copies thereof shall, together with copies of the audit report, if any, be submitted to the Court and to the Governor General in Council. The Executive Council shall also submit to the Court, on or before such date as may be prescribed by the Statutes, a statement of the financial estimates for the ensuing year.

(3) The annual accounts and the financial estimates shall be considered by the Court at its annual meeting, and the Court may pass resolutions thereon and communicate the same to the Executive Council.

### *Supplementary Provisions.*

**40.** The Chancellor shall, with the concurrence of not less than two-thirds of the members of the Court for the time being in India, have power to remove the name of any person from the register of registered graduates.

**41.** If any question arises whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Chancellor, whose decision thereon shall be final.



**42.** Where any authority of the University is given power by this Act or the Statutes to appoint committees, such committees shall, save as otherwise provided, consist of members of the authority concerned and of such other persons (if any) as the authority in each case may think fit.

**43.** All casual vacancies among the members (other than *ex-officio* members) of any authority or other body of the University shall be filled, as soon as conveniently may be, by the person or body who appointed, elected or co-opted (the member whose place has become vacant, and the person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

**44.** No act or proceeding of any authority or other body of the University shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

**45.** Any dispute arising out of a contract between the University and any officer or teacher of the University shall, on the request of the officer or teacher concerned, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the officer or teacher concerned, and an umpire appointed by the Chancellor. The decision of the Tribunal shall be final, and no suit shall lie in any Civil Court in respect of the matters decided by the Tribunal. Every such request shall be deemed to be a submission to arbitration upon the terms of this section, within the meaning of the Indian Arbitration Act, 1899,\* and all the provisions of that Act, with the exception of section 2 thereof, shall apply accordingly.

**46. (1)** The University shall constitute, for the benefit of its officers, teachers, clerical staff and servants in such manner and subject to such conditions as may be prescribed by the Statutes, such pension, insurance and provident funds as it may deem fit.

**(2)** Where any such pension, insurance or provident fund has been so constituted, the Governor General in Council may declare that the provisions of the Provident Funds Act, 1897,† shall apply to such fund as if it were a Government Provident Fund.

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\* IX of 1899.

† IX of 1897.

*Transitory Provisions.*

**47.** If any difficulty arises with respect to the establishment of the University or in connection with the first meeting of any authority of the University or otherwise in first giving effect to the provisions of this Act, the Governor General in Council may, at any time before all the authorities of the University have been constituted, by order make any appointment or do any thing, consistent so far as may be with the provisions of this Act and the Statutes, which appears to him necessary or expedient for the purpose of removing the difficulty, add every such order shall have effect as if such appointment or action had been made or taken in the manner provided in this Act:

Provided that, before making any such order, the Governor General in Council shall ascertain and consider the opinion of the Vice-Chancellor, if a Vice-Chancellor has been appointed, and of such of the authorities of the University as have been constituted, on the proposed order.

**48.** Notwithstanding anything contained in this Act or the Ordinances, any student of any of the following Colleges at Delhi, namely, the St. Stephen's College, the Hindu College and the Ramjas College, who, immediately prior to the commencement of this Act, was studying for any examination of the University of the Punjab higher than the Intermediate Examination, shall be permitted to complete his course in preparation therefor, and the University shall provide for such students instruction and examinations in accordance with the Prospectus of Studies of the University of the Punjab.

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THE SCHEDULE.

THE FIRST STATUTES OF UNIVERSITY.

[See section 29 (1).]

**1.** In these Statutes, unless there is anything repugnant in the subject or context,—

- Definitions.
- (a) "the Act" means the Delhi University Act, 1922 and "section" means a section of the Act; and
  - (b) "officers," "authorities," "Professors," "Readers," "Lecturers," "clerical staff" and "servants" mean, respectively, officers, authorities, Professors, Readers, Lecturers, clerical staff and servants of the University.

Constitution of the Court. **2.** (1) In addition to the officers mentioned in sub-section (1) of section 18, the following persons shall be *ex-officio* members of the Court, namely :—

- (i) the Chief Commissioner of Delhi;
- (ii) the Director-General, Indian Medical Service ;
- (iii) the Educational Commissioner with the Government of India;
- (iv) the Director of Public Instruction in the Punjab ;
- (v) the Superintendent of Education, Delhi and Ajmer-Merwara ;
- (vi) the Chairman of the Punjab Chamber of Commerce ;
- (vii) the Chairman of the Delhi Municipality ;
- (viii) the Chairman of the Delhi District Board ;
- (ix) the Senior Officer serving in the Public Works Department under the Chief Commissioner of Delhi ;
- (x) the Senior Medical Officer, Delhi ;
- (xi) the Principals of the Intermediate Colleges in Delhi which prepare candidates for admissions to the University;
- (xii) the Wardens.

(2) The number of graduates to be elected as members of the Court by the registered graduates from among their own body shall be twenty-five.

(3) The number of teachers to be elected as members of the Court by the teachers other than Professors and Readers shall be the ten.

(4) The number of person to be elected as members of the Court by associations or other bodies approved in this behalf by the Chancellor shall not exceed eight.

(5) The number of persons to be elected by the elected Members of the Council of State and the Legislative Assembly from among their own numbers shall be two and four, respectively,

(6) The number of persons to be appointed by the Chancellor under clause (xv) of sub-section (1) of section 18 shall be fifteen.

(7) Save as otherwise provided members of the Court other than *ex-officio* members shall hold office for a period of three years :

Provided that members elected under clause (xii) of sub-section (1) of section 18 shall hold office so long only within the said period as they continue to be teachers.

Constitution of the Executive Council.

3. (1) The members of the Executive Council, in addition to the Vice-Chancellor, the Rector and the Treasurer, shall be—

*Class I.—Ex-officio members.*

- (i) The Superintendent of Education, Delhi and Ajmer-Merwara;
- (ii) the Deans of the Faculties;
- (iii) the Principals.

*Class II.—Other members.*

- (iv) Five members of the Court elected by the Court at its annual meeting, of whom at least two shall be graduates of the University elected by the registered graduates from among their own number;
- (v) two members of the Academic Council elected by the Academic Council ; and
- (vi) two persons nominated by the Chancellor.

(2) Members other than *ex-officio* members shall hold office for a period of three years :

Provided that members elected by any body of persons from among their own number shall hold office so long only within the said period as they continue to be members of the body which elected them.

Powers of the Executive Council.

4. Subject to the provisions of the Act, the Executive Council shall have the following powers, namely :—

- (a) to institute, at its discretion, such Professorships, Readerships, Lectureships, or other teaching posts as may be proposed by the Academic Council ;
- (b) to abolish or suspend, after report from the Academic Council thereon, any Professorship, Readership, Lectureship, or other teaching post ;
- (c) to appoint or recognize teachers of the University and to appoint officers, clerical staff and servants, in accordance with the Statutes ;
- (d) to appoint all examiners after considering the recommendations of the Academic Council ;
- (e) to delegate, subjects to such conditions as may be prescribed by Regulations made by the Executive Council its power to appoint and recognize teachers of the University and to appoint officers, clerical staff and servants to such person or authority as the Executive Council may determine ;

- (f) to manage and regulate the finances, accounts, investments, property and all administrative affairs whatsoever of the University, and, for that purpose, to appoint such agents as it may think fit ;
- (g) to accept bequests, donations and transfers of property to the University :  
provided that all such bequests, donations and transfers shall be reported to the Court at its next meeting ;
- (h) to provide the buildings, premises, furniture, apparatus, equipment and other means needed for carrying on the work of the University ;
- (i) after report from the Finance Committee, to enter into, vary, carry out, confirm and cancel contracts on behalf of the University and ;
- (j) to invest any monies belonging to the University, including any unapplied income, in any of the securities described in section 20 of the Indian Trusts Act, 1882,\* or in the purchase of immoveable property in India, with the like power of varying such investments ; or to place on fixed deposit in any bank approved in this behalf by the Governor General in Council any portion of such monies not required for immediate expenditure.

The Academic Council.      **5. (1)** The members of the Academic Council, in addition to the Vice-Chancellor and the Rector, shall be—

*Class I.—Ex-officio members.*

- (i) The Deans of the Faculties ;
- (ii) the Principals ;
- (iii) the Professors and Readers ; and
- (iv) the Librarian of the University.

*Class II.—Other members.*

- (v) Persons, if any, not exceeding three in number and not being teachers, appointed by the Chancellor on account of their possessing expert knowledge in such subjects of study as may be selected by the *ex-officio* members of the Academic Council.
- (2) The Academic Council as constituted under sub-clause (1) shall co-opt as members teachers of the University not exceeding one-tenth of its numbers as so constituted.

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\* II of 1882,

(3) Members other than *ex-officio* members shall hold office for a period of three years :

Provided that teachers of the University co-opted as such shall hold office so long only within the said period as they continue to be teachers of the University.

Powers of the Academic Council.

**6.** The Academic Council shall have the following powers, namely :—

- (a) to make proposals to the Executive Council for the institution of Professorships, Readerships, Lectureships or other teaching posts, and in regard to the duties and emoluments thereof ;
- (b) to make Regulations for, and to award in accordance with such Regulations, Fellowships, Scholarships, Exhibitions, bursaries, medals and other rewards ;
- (c) to recommend examiners for appointment after report from the Faculties concerned ;
- (d) to control the University Library, to frame Regulations regarding its use, and to appoint a Library Committee under the general control of the Academic Council to manage the affairs of the Library ;
- (e) to assign subjects to the Faculties ;
- (f) to assign teachers to the Faculties ;
- (g) to promote research within the University and to require reports on such research from the persons employed thereon ;
- (h) to provide for the inspection of Colleges and Halls in respect of the instruction and discipline therein, and to submit reports thereon to the Executive Council ; and
- (i) to organize the teaching of the University and to control the work of teachers and Colleges.

The Faculties.

**7. (1)** Each Faculty shall consist of—

- (i) the heads of the Departments comprised in the Faculty ;
- (ii) such teachers of subjects assigned to the Faculty as may be appointed to the Faculty by the Academic Council ;
- (iii) such teachers of subjects not assigned to the Faculty but having, in the opinion of the Academic Council, an important bearing on those subjects, as may be appointed to the Faculty by the Academic Council ; and
- (iv) such other persons as may be appointed to the Faculty by the Academic Council on account of their possess-

ing expert knowledge in a subject or subjects assigned to the Faculty.

(2) The total number of members of each Faculty shall not exceed, in the case of the Faculties of Arts and Science, twenty-five, and in the case of any other Faculty, fifteen, except with the sanction of the Chancellor given on the request of the Academic Council.

**8.** Subject to the provisions of the Act,  
Powers of the Faculties. each Faculty shall have the following powers, namely :—

- (a) to constitute Committees of Courses and Studies ; and
- (b) to recommend to the Academic Council, after consulting the Committees of Courses and Studies, the names of examiners in subjects assigned to the Faculty.

**9.** There shall be a Board of Co-ordination composed of the  
Board of co-ordination. Vice-Chancellor, who shall be Chairman thereof, the Rector, the Deans of the Faculties and the Registrar, to co-ordinate the teaching of the University, and in particular to co-ordinate the work and time-tables of the various Faculties, and to assign lecture-rooms, laboratories, and other rooms to the Faculties.

**10.** (1) The Dean of each Faculty shall be the executive officer  
The Dean. of the Faculty, and shall preside at its meetings. He shall hold office for three years.

(2) He shall issue the lecture lists of the University in the Department comprised in the Faculty, and shall be responsible for the conduct of teaching therein.

(3) He shall have the right to be present and to speak at any meeting of any committee of the Faculty, but not to vote unless he is a member of the committee.

**11.** The appointment of a Warden shall, in the case of a Hall  
Halls. maintained by the University, be made by the Executive Council, and in other cases be subject to the approval of the Executive Council.

**12.** Every student not residing in a College or Hall shall be  
Attachment to Colleges and Halls. attached to a College or Hall for tutorial help and disciplinary supervision and for such other purposes as may be prescribed by the Ordinances.

**13.** The Court may, on the recommendation of the Executive  
Withdrawal of degrees and diplomas. Council, by a resolution passed with the concurrence of not less than two-thirds of the members voting, withdraw any degree or diploma conferred by the University.

**14. (1)** All proposals for the conferment of honorary degrees shall be made by the Academic Council to the Executive Council, and shall require the assent of the Court before submission to the Chancellor for confirmation :

Provided that, in cases of urgency, the Chancellor may act on the recommendation of the Executive Council only.

(2) Any honorary degree conferred by the University may, with the previous approval of two thirds of the members present at any meeting of the Court and the sanction of the Chancellor, be withdrawn by the Executive Council.

**15.** The following persons shall, on payment of such fees as may be prescribed by the Statutes, be entitled to have their names enrolled in the register of registered graduates, namely :—

(a) for a period of five years from the commencement of the Act, all graduates of three years' standing or upwards of any other Indian University incorporated by any law for the time being in force, or of any University in the United Kingdom, who reside or carry on business in the Province of Delhi and apply to the University to be granted *ad eundem* degrees of the University ; and

(b) all graduates of the University of three years' standing and upwards.

**16.** There shall be the following officers, namely :—

(i) a Proctor for the maintenance of the general discipline of the University, to whom the Vice-Chancellor may delegate such of his disciplinary powers as he may think fit ; and

(ii) a Librarian for the University Library.

**17. (1)** No person shall be appointed or recognized as a teacher of the University except on the nomination of a committee of selection constituted for the purpose as follows, namely :—

(i) the Vice-Chancellor ;

(ii) the Rector ;

(iii) the Dean of the Faculty concerned ;

(iv) two members of the Executive Council selected by the Executive Council ;



- (v) two members of the Academic Council selected by the Academic Council on the ground of their special knowledge of, or interest in, the subject or subjects with which the teacher will be concerned ;
- (vi) a representative of the Governing Body of each College ; and
- (vii) three persons (two of whom shall not be officers of the University) appointed by the Chancellor.

(2) Committees of selection appointed under sub-clause (1) shall report to the Executive Council which shall, if it accepts the nomination of the committee, make the appointment or confer the recognition, as the case may be. If the Executive Council does not accept the nomination of the committee, it shall refer the case to the Chancellor, who shall appoint or recognize such person as he thinks fit.

## ACT NO. IX OF 1922.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 5th March, 1922.)*

**An Act further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of compensation in respect of false or vexatious claims or defences in civil suits or proceedings.**

WHEREAS it is expedient further to amend the Provincial Small Cause Courts Act, 1887\* and the Code of Civil Procedure, 1908 ; † It is hereby enacted as follows :—

Short title and commencement.

**1.** (1) This Act may be called the Civil Procedure (Amendment) Act, 1922.

(2) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, direct that this Act shall come into force throughout the Province or in any part thereof on such date as may be specified in the notification.

Insertion of new section 35A in Act V of 1908.

**2.** In Part I of the Code of Civil Procedure, 1908† (hereinafter referred to as the said Code), after section 35 the following shall be inserted, namely :—

Compensatory costs in respect of false or vexatious claims or defences.

“35A (1) If in any suit or other proceeding, not being an appeal, any party objects to the claim or defence on the ground that the claim or defence or any part of it is, as against the objector, false or vexatious to the knowledge of the party by whom it has been put forward, and if thereafter, as against the objector, such claim or defence is disallowed, abandoned or withdrawn in whole or in part, the Court, if the objection has been taken at the earliest opportunity and if it is satisfied of the justice thereof, may, after recording its reasons for holding such claim or defence to be false or vexatious, make an order for the payment to the objector, by the party by whom such claim or defence has been put forward, of costs by way of compensation.

(2) No Court shall make any such order for the payment of an amount exceeding one thousand rupees or exceeding the limits of its pecuniary jurisdiction, whichever amount is less :

Provided that where the pecuniary limits of the jurisdiction of any Court exercising the jurisdiction of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887,\* and not being a Court constituted under that Act, are less than two hundred and fifty rupees, the High Court may empower such Court to award as costs under this section any amount not exceeding two hundred and fifty rupees and not exceeding those limits by more than one hundred rupees :

Provided, further, that the High Court may limit the amount which any Court or class of Courts is empowered to award as costs under this section.

(3) No person against whom an order has been made under this section shall, by reason thereof, be exempted from any criminal liability in respect of any claim or defence made by him.

(4) The amount of any compensation awarded under this section in respect of a false or vexatious claim or defence shall be taken into account in any subsequent suit for damages or compensation in respect of such claim or defence.

Amendment of section 104, Act V of 1908.

3. In sub-section (1) of section 104 of the said Code—

(i) after clause (f) the following clause shall be inserted, namely :—

“(ff) an order under section 35 A”; and

(ii) after clause (i) the following proviso shall be inserted, namely :—

“ Provided that no appeal shall lie against any order specified in clause (f) save on the ground that no order,

or an order for the payment of a less amount, ought to have been made."

Amendment of Order  
XLI, Schedule I, Act V  
of 1908.

4. To rule 33 of Order XLI of the First Schedule to the said Code, the following proviso shall be added, namely :—

" Provided that the Appellate Court shall not make any order under section 35A, in pursuance of any objection on which the Court from whose decree the appeal is preferred has omitted or refused to make such order."

5. In section 24 of the Provincial Small Cause Courts Act, 1887,\* for the words and figures "section 588, clause (29) of the Code of Civil Procedure" the words and figures "clause (ff) or clause (h) of sub-section (r) of section 104 of the Code of Civil Procedure, 1908,"† shall be substituted; and after the words "District Court," the following words shall be added, namely :—

"on any ground on which an appeal from such order would lie under that section."

## ACT NO. X OF 1922.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 5th March, 1922.)*

### **An Act further to amend the Indian Limitation Act, 1908.**

WHEREAS it is expedient further to amend the Indian Limitation Act, 1908; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Limitation (Amendment) Act, 1922.

2. In section 5 of the Indian Limitation Act, 1908‡ (hereinafter referred to as the said Act), for the words "by any enactment or rule" the words "by or under any enactment" shall be substituted.

Amendment of section 29,  
Act IX of 1908.

3. In section 29 of the said Act,—

\* IX of 1887.

† V of 1908.

‡ IX of 1908.

(a) for sub-section (1) the following sub-section shall be substituted, namely :—

Savings. “ 29. (1) Nothing in this Act shall affect section 25 of the Indian Contract Act, 1872.\*

(2) Where any special or local law prescribes for any suit appeal or application a period of limitation different from the period prescribed therefor by the first schedule, the provisions of section 3 shall apply, as if such period prescribed therefor in that schedule, and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law—

(a) the provisions contained in section 4, sections 9 to 18, and section 22 shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law ; and

(b) the remaining provisions of this Act shall not apply.” and

(b) sub-sections (2) and 3) shall be re-numbered (3) and (4), respectively.

## ACT NO. XI OF 1922.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 5th March, 1922).*

### **An Act to consolidate and amend the law relating to Income-tax and Super-tax.**

Whereas it is expedient to consolidate and amend the law relating to Income-tax and Super-tax; it is hereby enacted as follows :—

Short title, extent and commencement. **1. (1)** This Act may be called the Indian Income-tax Act, 1922.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas, and applies also, within the dominions of Princes and Chiefs in India in alliance with his Majesty, to British subjects in those dominions who are in the service of the Government of India or of a local authority established in the exercise of the powers of the Governor General in Council in that behalf, and to all other servants of His Majesty in those dominions.

(3) It shall come into force on the first day of April, 1922.

Definitions. **2.** In this Act, unless there is anything repugnant in the subject or context,—

(1) "agricultural income" means—

- (a) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land revenue in British India or subject to a local rate assessed and collected by officers of Government as such ;
- (b) any income derived from such land by -
  - (i) agriculture, or
  - (ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him, fit to be taken to market, or
  - (iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (ii) ;
- (c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in sub-clauses (ii) and (iii) of clause (b) is carried on :

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling-house, or as a store-house, or other out-building ;

(2) "assessee" means a person by whom Income-tax is payable ;

(3) "Assistant Commissioner" means a person appointed to be an Assistant Commissioner of Income-tax under section 5 ;

(4) "business" includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce or manufacture ;

(5) "Commissioner" means a person appointed to be a Commissioner of Income-tax under section 5 ;

(6) "company" means a company as defined in the Indian Companies Act, 1913,\* or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession, and includes any

foreign association carrying on business in British India whether incorporated or not, and whether its principal place of business is situate in British India or not, which the Board of Inland Revenue may, by general or special order, declare to be a company for the purposes of this Act ;

(7) " Income-tax Officer " means a person appointed to be an Income-tax Officer under section 5 ;

(8) " Magistrate " means a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by the Local Government to try offences against this Act ;

(9) " person " includes a Hindu undivided family ;

(10) " prescribed " means prescribed by rules made under this Act ;

(11) " previous year " means—

(a) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made, or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then at the option of the assessee the year ending on the day to which his accounts have so been made up :

Provided that, if this option has once been exercised by the assessee, it shall not again be exercised so as to vary the meaning of the expression " previous year " as then applicable to such assessee except with the consent of the Income-tax Officer and upon such conditions as he may think fit ; or

(b) in the case of any person, business or company or class of person, business or company, such period as may be determined by the Board of Inland Revenue or by such authority as the Board may authorise in this behalf ;

(12) " principal officer," used with reference to a local authority or a company or any other public body or association, means—

(a) the secretary, treasurer, manager or agent of the authority, company, body or association, or

(b) any person connected with the authority, company, body or association upon whom the Income-tax Officer has served a notice of his intention of treating him as the principal officer thereof ;

(13) " public servant " has the same meaning as in the Indian Penal Code ; \*

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\* XLV of 1860.

(14) "registered firm" means a firm constituted under an instrument of partnership specifying the individual shares of the partners of which the prescribed particulars have been registered with the Income-tax Officer in the prescribed manner ;

(15) "total income" means total amount of income, profits and gains from all sources to which this Act applies computed in the manner laid down in section 16 ; and

(16) "unregistered firm" means a firm which is not a registered firm.

### NOTES.

The selami or premium paid for the settlement of waste land is agricultural income. 25 C. W. N 80=32 C. L. J. 432.

## CHAPTER I.

### CHARGE OF INCOME-TAX.

**3.** Where any Act of the Indian Legislature enacts that income-tax shall be charged for any year at any rate or rates applicable to the total income of an assessee, tax at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions of, this Act in respect of all income, profits and gains of the previous year of every individual, company, firm and Hindu undivided family.

**4.** (1) Save as hereinafter provided, this Act shall apply to all income, profits or gains, as described or comprised in section 6, from whatever source derived, accruing, or arising, or received in British India, or deemed under the provisions of this Act to accrue, or arise, or to be received in British India.

(2) Profits and gains of a business accruing or arising without British India to a person resident in British India shall be deemed to be profits and gains of the year in which they are received or brought into British India, notwithstanding the fact that they did not so accrue or arise in that year, provided that they are so received or brought in within three years of the end of the year in which they accrued or arose.

*Explanation.*—Profits or gains accruing or arising without British India shall not be deemed to be received or brought into British India within the meaning of this sub-section by reason only of the fact that they are taken into account in the balance sheet prepared in British India.

(3) This Act shall not apply to the following classes of income : —

- (i) Any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, and in the case of property so held in part only for such purposes, the income applied, or finally set apart for application, thereto.
- (ii) Any income of a religious or charitable institution derived from voluntary contributions and applicable solely to religious or charitable purposes.
- (iii) The income of local authorities.
- (iv) Interest on securities which are held by, or are the property of, any Provident Fund to which the Provident Funds Act, 1897,\* applies, or any Provident Insurance Society to which the Provident Insurance Societies Act, 1912,† is, or, but for an exemption under that Act, would be, applicable.
- (v) Any capital sum received in commutation of the whole or a portion of a pension, or in the nature of consolidated compensation for death or injuries, or in payment of any insurance policy, or as the accumulated balance at the credit of a subscriber to any such Provident Fund,
- (vi) Any special allowance, benefit or perquisite specifically granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit
- (vii) Any receipts not being receipts arising from business or the exercise of a profession, vocation or occupation, which are of a casual and non-recurring nature, or are not by way of addition to the remuneration of an employe.
- (viii) Agricultural income.

In this sub-section "charitable purpose" includes relief of the poor, education, medical relief. and the advancement of any other object of general public utility.

#### NOTES.

**Clause (1)**—The profits of a company arose or accrued outside British India cannot be said to have received in British India, simply because the company is registered in British India and the accounts are made up in British India. 45 B 1286 ; 43 M. 75. (F. B). But annuity of native, state sent to British India during temporary residence is income received in British India. 1916 M. W. N. 122.

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\* IX of 1897.

† V of 1912.



**Clause (3)**—The income of a club registered under the company's Act is not liable to be assessed. 2 Lah. 109. *Sajjadunashin* of Sasseram Khankas, not liable to be assessed with income tax. 27 C. 674.

**Clause (8)**—Profits accruing from manufacture of tea from the green leaves as marketable commodity is liable to assessment. 48c 161 32C. L. J 421 ; See also (1919) Pat 377.

## CHAPTER II.

### INCOME-TAX AUTHORITIES,

**Income-tax authorities.** **5. (1)** There shall be the following classes of Income-tax authorities for the purposes of this Act, namely :—

- (a) a Board of Inland Revenue,
- (b) Commissioners of Income tax,
- (c) Assistant Commissioners of Income-tax, and
- (d) Income tax Officers.

(2) The Board of Inland Revenue shall consist of one or more persons appointed by the Governor General in Council.

(3) There shall be a Commissioner of Income-tax for each province who shall be appointed by the Governor General in Council after consideration of any recommendation made by the Local Government in this behalf.

(4) Assistant Commissioners of Income-tax and Income-tax Officers shall, subject to the control of the Governor General in Council, be appointed by the Commissioner of Income-tax by order in writing. They shall perform their functions in respect of such classes of persons and such classes of income and in respect of such areas as the Commissioner of Income-tax may direct. The Commissioner may, by general or special order in writing, direct that the powers conferred on the Income tax Officer and the Assistant Commissioner by or under this Act shall, in respect of any specified case or class of cases, be exercised by the Assistant Commissioner and the Commissioner, respectively, and, for the purposes of any case in respect of which such order applies, references in this Act or in any rules made hereunder to the Income-tax Officer and the Assistant Commissioner shall be deemed to be references to the Assistant Commissioner and the Commissioner, respectively.

(5) The Board of Inland Revenue may, by notification in the Gazette of India, appoint Commissioners of Income-tax, Assistant Commissioners of Income-tax and Income-tax Officers to perform such functions in respect of such classes of persons or such classes of income, and for such area, as may be specified in the notification, and thereupon the functions so specified shall cease, within the specified area, to be performed, in respect of the specified classes of persons or classes of income, by the authorities appointed under sub-sections (3) and (4).

(6) Assistant Commissioners of Income-tax and Income-tax Officers appointed under sub-section (4) shall, for the purposes of this Act, be subordinate to the Commissioner of Income-tax appointed under sub section (3) for the province in which they perform their functions.

### CHAPTER III. TAXABLE INCOME.

6. Save as otherwise provided by this Act, the following heads of income, profits and gains, shall be chargeable to income-tax in the manner hereinafter appearing, namely :—

Heads of income chargeable to income-tax.

- (i) Salaries.
- (ii) Interest on securities.
- (iii) Property.
- (iv) Business.
- (v) Professional earnings,
- (vi) Other sources.

#### NOTES.

**Clause VI.**—Income derived from rents and royalties of collieries are liable to be assessed with income-tax. 34 C-257. This income does not fall under clause (IV) but under clause (VI) and as such in assessing income tax the amount paid for road cess and public work cess should not be deducted under S. 10—6 Pat. L. J. 62—(1921) Pat. 81.

7. (1) The tax shall be payable by an assessee under the head "Salaries" in respect of any salary or wages any annuity, pension or gratuity, and any fees, commissions, prerequisites or profits received by him in lieu of, or in addition to, any salary or wages, which are paid by or on behalf of Government, a local authority, a company, or any other public body or association, or by or on behalf of any private employer :

Provided that the tax shall not be payable in respect of any sum deducted under the authority of Government from the salary of any individual for the purpose of securing to him a deferred annuity or of making provision for his wife or children, provided that the sum so deducted shall not exceed one-sixth of the salary.

(2) Any income which would be chargeable under this head if paid in British India shall be deemed to be so chargeable if paid to a British subject or any servant of His Majesty in any part of India by Government or by a local authority established by the Governor General in Council.

8. The tax shall be payable by an assessee under the head "interest on securities" in respect of the interest receivable by him on any security of the Government of India or of a Local Government, or on debentures or other securities for money issued by or on behalf of a local authority or a company :

Provided that no income-tax shall be payable on the interest receivable on any security of the Government of India issued or declared to be income-tax free :

Provided, further, that the income-tax payable on the interest receivable on any security of a Local Government issued income-tax free shall be payable by that Local Government.

9. (1) The tax shall be payable by an assessee under the head "Property" in respect of the *boda fide* annual value of property consisting of any building lands appurtenant thereto of which he is the owner, other than such portions of such property as he may occupy for the purposes of his business, subject to the following allowances, namely :—

- (i) where the property is in the occupation of the owner, or where it is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one-sixth of such value ;
- (ii) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs, the difference between such value and the rent paid by the tenant up to but not exceeding one-sixth of such value ;
- (iii) the amount of any annual premium paid to insure the property against risk of damage or destruction ;
- (iv) where the property is subject to a mortgage or charge or to a ground rent, the amount of any interest on such mortgage or charge or of any such ground rent ;
- (v) any sums paid on account of land-revenue in respect of the property ;
- (vi) in respect of collection charges, a sum not exceeding the prescribed maximum ;
- (vii) in respect of vacancies, such sum as the Income-tax Officer may determine having regard to the circumstances of the case :

Provided that the aggregate of the allowances made under this sub-section shall in no case exceed the annual value.

(2) For the purposes of this section, the expression "annual value" shall be deemed to mean the sum for which the property might reasonably be expected to let from year to year :

Provided that, where the property is in the occupation of the owner for the purposes of his own residence, such sum shall, for the purposes of his section, be deemed not to exceed ten per cent. of the total income of the owner.

**10. (1)** The tax shall be payable by an assessee under the head "Business" in respect of the profits or gains of any business carried on by him.

(2) Such profits or gains shall be computed after making the following allowances, namely :—

- (i) any rent paid for the premises in which such business is carried on, provided that when any substantial part of the premises is used as a dwelling-house by the assessee, the allowance under this clause shall be such sum as the Income-tax Officer may determine having regard to the proportional part so used ;
- (ii) in respect of repairs, where the assessee is the tenant only of the premises, and has undertaken to bear the cost of such repairs, the amount paid on account thereof, provided that, if any substantial part of the premises is used by the assessee as a dwelling-house, a proportional part only of such amount shall be allowed ;
- (iii) in respect of capital borrowed for the purposes of the business, where the payment of interest thereon is not in any way dependent on the earning of profits, the amount of the interest paid ;

*Explanation :—*Recurring subscriptions paid periodically by shareholders or subscribers in such Mutual Benefit Societies as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause ;

- (iv) in respect of insurance against risk of damage or destruction of buildings, machinery, plant, furniture, stocks or stores, used for the purposes of the business the amount of any premium paid ;
- (v) in respect of current repairs to such buildings, machinery, plant, or furniture, the amount paid on account thereof ;
- (vi) in respect of depreciation of such buildings, machinery, plant, or furniture being the property of the assessee, a sum equivalent to such percentage on the original cost thereof to the assessee as may in any case or class of cases be prescribed ;

Provided that—

- (a) the prescribed particulars have been duly furnished ;

- (b) where full effect cannot be given to any such allowance in any year owing to there being no profits or gains chargeable for that year, or owing to the profits or gains chargeable being less than the allowance, the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following year and deemed to be part of that allowance, or, if there is no such allowance for that year be deemed to be the allowance for that year, and so on for succeeding years; and
- (c) the aggregate of all such allowances made under this Act or any Act repealed hereby, or under the Indian Income-tax Act, 1886,\* shall, in no case, exceed the original cost to the assessee of the buildings, machinery, plant, or furniture, as the case may be ;
- (vii) in respect of any machinery or plant which, in consequence of its having become obsolete, has been sold or discarded, the difference between the original cost to the assessee of the machinery or plant as reduced by the aggregate of the allowances made in respect of depreciation under clause (vi), or any Act repealed hereby, or the Indian Income-tax Act, 1886,\* and the amount for which the machinery or plant is actually sold, or its scrap value ;
- (viii) any sums paid on account of land-revenue, local rates or municipal taxes in respect of such part of the premises as is used for the purposes of the business;
- (ix) any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of earning such profits or gains.

(3) In sub-section (2), the word "paid" means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under this section.

#### NOTES.

NOTES—Allowance should be made on account of the annual value of business premises owned and occupied by a firm. 43A. 139.

Interest which accrues due to a money lending firm in the year of account is not assessable under this section as profits of business unless it is received or realised in the year of account. 44 M. 65 (F. B.)—39 M. L. J. 649.

Deductions cannot be made under this section for commission paid to underwriters on the issue of new shares. 45. B. 1306. See also 48C. 844 ; 48C. 161 ; (1919) Pat. 377; 42 M. L. J. 7; 16 Ind. Cas. 686; 29M. 477 (F. B.); 23 C. L. J. 148; 24 Bom. L. R. 118; 6 Pat. L. J. 62 ; 34 C. 257; 44 M. 289 ; 1 Bur. L. J. 53 ; 34C. 257; 42 M. L. J. 283.

Professional earnings. **11. (1)** The tax shall be payable by an assessee under the head "Professional earnings" in respect of the profits or gains of any profession or vocation followed by him.

(2) Such profits or gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purposes of such profession or vocation, provided that no allowance shall be made on account of any personal expenses of the assessee.

(3) Professional fees paid in any part of India to a person ordinarily resident in British India shall be deemed to be profits or gains chargeable under this head,

NOTES.—Vide. 43 M. 75.

Other sources. **12. (1)** The tax shall be payable by an assessee under the head "Other sources" in respect of income, profits and gains of every kind and from every source to which this Act applies (if not included under any of the preceding heads).

(2) Such income, profits and gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of making or earning such income, profits or gains, provided that no allowance shall be made on account of any personal expenses of the assessee.

NOTES.

Vide 34C. 257 ; 6 Pat. L. J. 62 ; 42 M. L.J. (N.) ; 14 ;

Method of accounting. **13.** Income, profits and gains shall be computed, for the purposes of sections 10, 11 and 12, in accordance with the method of accounting regularly employed by the assessee :

Provided that, if no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Income-tax Officer, the income, profits and gains cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as the Income-tax Officer may determine.

Exemptions of a general nature. **14. (1)** The tax shall not be payable by an assessee in respect of any sum which he receives as a member of a Hindu undivided family.

(2) The tax shall not be payable by an assessee in respect of—

(a) any sum which he receives by way of dividend as a shareholder in a company where the profits or gains of the company have been assessed to income-tax ; or

(b) such an amount of the profits or gains of any firm which have been assessed to income-tax as is proportionate to his share in the firm.

Exemption in the case of life insurances.

**15, (1)** The tax shall not be payable by an assessee in respect of any sums paid by him to effect an insurance of his own life or on the life of his wife, or in respect of a contract for a deferred annuity on his own life or on the life of his wife, or as a contribution to any Provident Fund to which the Provident Funds Act, 1897\* applies, or to any Provident Fund which complies with the provisions of the Provident Insurance Societies Act, 1912,† or has been exempted from the provisions of that Act,

(2) Where the assessee is a Hindu undivided family, there shall be exempted under sub-section (1) any sums paid to effect an insurance on the life of any male member of the family or of the wife of any such member.

(3) The aggregate of any sums exempted under this section shall not together with any sums exempted under the proviso to sub-section (1) of section 7, exceed one-sixth of the total income of the assessee,

Exemptions and exclusions in determining the total income.

**16. (1)** In computing the total income of an assessee sums exempted under the proviso to sub-section (1) of section 7, the provisos to section 8, sub-section (2) of section 14 and section 15, shall be included.

(2) For the purposes of sub-section (1), any sum mentioned in clause (a) of sub-section (2) of section 14 shall be increased by the amount of income-tax payable by the company in respect of the dividend received.

Reduction of tax when margin above a certain limit is small.

**17.** Where owing to the fact that the total income of any assessee has reached or exceeded a certain limit, he is liable to pay income-tax or to pay income-tax at a higher rate, the amount of income-tax payable by him shall, where necessary, be reduced so as not to exceed the aggregate of the following amounts, namely :—

(a) the amount which would have been payable if his total income had been a sum less by one rupee than that limit, and

(b) the amount by which his total income exceeds that sum.

## CHAPTER IV.

## DEDUCTIONS AND ASSESSMENT.

**18.** (1) Income-tax shall, unless otherwise prescribed in the case of any security of the Government of India, be leviable in advance by deduction at the time of payment in respect of income chargeable under the following heads :—

(i) "Salaries"; and

(ii) "Interest on securities."

(2) Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income tax on the amount payable at the rate applicable to the estimated income of the assessee under this head :

Provided that such person may, at the time of making any deduction, increase or reduce the amount to be deducted under this sub-section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct.

(3) The person responsible for paying any income chargeable under the head "interest on securities" shall, at the time of payment, deduct income-tax on the amount of the interest payable at the maximum rate.

(4) All sums deducted in accordance with the provisions of this section shall, for the purpose of computing the income of an assessee, be deemed to be income received.

(5) Any deduction made in accordance with the provisions of this section shall be treated as a payment of income-tax on behalf of the person from whose income the deduction was made, or of the owner of the security, as the case may be, and credit shall be given to him therefor in the assessment, if any, made for the following year under this Act :

Provided that, if such person or such owner obtains, in accordance with the provisions of this Act, a refund of any portion of the tax so deducted, no credit shall be given for the amount of such refund.

(6) All sums deducted in accordance with the provisions of this section shall be paid within the prescribed time by the person making the deduction to the credit of the Government of India, or as the Board of Inland Revenue directs.

(7) If any such person does not deduct and pay the tax as required by this section, he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

(8) The power to levy by deduction under this section shall be without prejudice to any other mode of recovery.



(9) Every person deducting income-tax in accordance with the provisions of sub-section (3) shall, at the time of payment of interest, furnish to the person to whom the interest is paid a certificate to the effect that income-tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted, and such other particulars as may be prescribed.

**19.** In the case of income chargeable under any other head than those mentioned in sub-section (1) of section 18, and in any case where income-tax has not been deducted in accordance with the provisions of that section, the tax shall be payable by the assessee direct.

Payment in other cases.

**20.** The principal officer of every company shall, at the time of distribution of dividends, furnish to every person receiving a dividend a certificate to the effect that the company has paid or will pay income-tax on the profits which are being distributed, and specifying such other particulars as may be prescribed.

Certificate by company to shareholders receiving dividends.

**21.** The prescribed person in the case of every Government office, and the principal officer or the prescribed person in the case of every local authority, company or other public body or association, and every private employer shall prepare, and, within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the Income-tax Officer in the prescribed form, a return in writing showing—

Annual return.

(a) the name and, so far as it is known, the address, of every person who was receiving on the said 31st day of March, or has received during the year ending on that date, from the authority, company, body, association or private employer, as the case may be, any income chargeable under the head "Salaries" of such amount as may be prescribed ;

(b) the amount of the income so received by each such person, and the time or times at which the same was paid ;

(c) the amount deducted in respect of income-tax from the income of each such person.

**22.** (1) The principal officer of every company shall prepare, and, on or before the fifteenth day of June in each year, furnish to the Income-tax Officer a return, in the prescribed form and verified in the prescribed manner, of the total income of the company during the previous year.

Return of income.

Provided that the Income-tax Officer may, in his discretion, extend the date for the delivery of the return in the case of any company or class of companies.

(2) In the case of any person other than a company whose total income is, in the Income-tax Officer's opinion, of such an amount as to render such person liable to income-tax, the Income-tax Officer shall serve a notice upon him requiring him to furnish, within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total income during the previous year.

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2), or having furnished a return under either of those sub-sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made, and any return so made shall be deemed to be a return made in due time under this section.

(4) The Income-tax Officer may serve on the principal officer of any company or on any person upon whom a notice has been served under sub-section (2) a notice requiring him, on a date to be therein specified, to produce, or cause to be produced, such accounts or documents as the Income-tax Officer may require :

Provided that the Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year,

**23.** (1) If the Income-tax Officer is satisfied that a return made under section 22 is correct and complete, he shall assess the total income of the assessee, and shall determine the sum payable by him on the basis of such return.

Assessment.

(2) If the Income-tax Officer has reason to believe that a return made under section 22 is incorrect or incomplete, he shall serve on the person who made the return a notice requiring him, on a date to be therein specified, either to attend at the Income-tax Officer's office or to produce, or to cause to be there produced, any evidence on which such person may rely in support of the return.

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, the Income tax Officer, after hearing such evidence as such person may produce and such other evidence as the Income-tax Officer may require, on specified points, shall, by an order in writing, assess the total income of the assessee, and determine the sum payable by him on the basis of such assessment.

(4) If the principal officer of any company or any other person fails to make a return under sub-section (1) or sub-section (2) of section 22, as the case may be, or fails to comply with all the terms of a notice issued under sub-section (4) of the same section or, having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of this section, the Income-tax Officer shall make the assessment to the best of his judgment.

Set off of loss in computing aggregate income.

**24.** (1) Where any assessee sustains a loss of profits or gains in any year under any of the heads mentioned in section 6, he shall be entitled to have the amount of the loss set off against his income, profits or gains under any other head in that year.

(2) Where the assessee is a registered firm, and the loss sustained cannot wholly be set off under sub-section (1), any member of such firm shall be entitled to have set off against any income, profits or gains of the year in which the loss was sustained in respect of which the tax is payable by him such amount of the loss not already set off as is proportionate to his share in the firm.

Assessment in case of discontinued business.

**25.** (1) Where any business, profession or vocation commenced after the 31st day of March, 1922, is discontinued in any year, an assessment may be made in that year on basis of the income, profits or gains of the period between the end of the previous year and the date of such discontinuance in addition to the assessment, if any, made on the basis of the income, profits or gains of the previous year.

(2) Any person discontinuing any such business, profession or vocation shall give to the Income-tax Officer notice of such discontinuance within fifteen days thereof, and, where any person fails to give the notice required by this sub-section, the Income-tax Officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of tax subsequently assessed on him in respect of any income, profits or gains of the business, profession or vocation up to the date of its discontinuance.

(3) Where any business, profession or vocation which was in existence at the commencement of this Act, and on which tax was at any time charged under the provisions of the Indian Income-tax Act, 1918,\* is discontinued, no tax shall be payable in respect of the income, profits and gains of the period between the end of the previous year and the date of such discontinuance, and the assessee may further claim that the income, profits and gains of the previous year shall be deemed to have been the income, profits and gains of the said period. Where any such claim is made, an assessment shall be made on the basis of the income, profits and

gains of the said period, and if an amount of tax has already been paid in respect of the income, profits and gains of the previous year exceeding the amount payable on the basis of such assessment, a refund shall be given of the difference.

(4) Where an assessment is to be made under sub-section (1) or sub-section (3), the Income-tax Officer may serve on the person whose income, profits and gains are to be assessed, or, in the case of a firm, on any person who was a member of such firm at the time of its discontinuance, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section.

**26.** Where any change occurs in the constitution of a firm or where any person has succeeded to any business, profession or vocation, the assessment shall be made on the firm as constituted, or on the person engaged in the business, profession or vocation, as the case may be, at the time of the making of the assessment.

**27.** Where an assessee or, in the case of a company, the principal officer thereof, within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Income-tax Officer that he was prevented by sufficient cause from making the return required by section 22, or that he did not receive the notice issued under sub-section (4) of section 22, or sub-section (2) of section 23, or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of the last-mentioned notices, the Income tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 23.

**28.** (1) If the Income tax Officer, the Assistant Commissioner or the Commissioner in the course of any proceedings under this Act, is satisfied that an assessee has concealed the particulars of his income, or has deliberately furnished inaccurate particulars of such income, and has thereby returned it below its real amount, he may direct that the assessee shall, in addition to the income-tax payable by him, pay by way of penalty a sum not exceeding the amount of income-tax which would have been avoided if the income so returned by the assessee had been accepted as the correct income :

Provided that no such order shall be made, unless the assessee has been heard, or has been given a reasonable opportunity of being heard :

Provided, further, that no prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(2) An Assistant Commissioner or a Commissioner who has made an order under sub-section (1) shall forthwith send a copy of the same to the Income-tax Officer.

#### NOTES.

Penal assessment under this section can be made on the ground that the assessee has made a false return but it cannot be made a ground of non-production of account books. The second proviso to this section is intended to bar a prosecution under sec. 52 and not one under section 51 (d) of the Act. 43 M. 498.

**29.** When the Income-tax Officer has determined a sum to be payable by an assessee under section 23, or when an order has been passed under sub-section (2) of section 25 or section 28 for the payment of a penalty, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable.

**30.** (1) Any assessee objecting to the amount or rate at which he is assessed under section 23, or section 27, or denying his liability to be assessed under this Act, or objecting to a refusal of an Income-tax Officer to make a fresh assessment under section 27, or to any order against him under sub-section (2) of section 25 or section 28, made by an Income-tax Officer, may appeal to the Assistant Commissioner against the assessment or against such refusal or order :

Provided that no appeal shall lie in respect of an assessment made under sub-section (4) of section 23, or under that sub-section read with section 27.

(2) The appeal shall ordinarily be presented within thirty days of receipt of the notice of demand relating to the assessment or penalty objected to, or of the date of the refusal to make a fresh assessment under section 27, as the case may be ; but the Assistant Commissioner may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

**31.** (1) The Assistant Commissioner shall fix a day and place for the hearing of the appeal, and may from time to time adjourn the hearing.

(2) The Assistant Commissioner may, before disposing of any appeal, make such further inquiry as he thinks fit, or cause further inquiry to be made by the Income-tax Officer.

(3) In disposing of an appeal the Assistant Commissioner may, in the case of an order of assessment,—

(a) confirm, reduce, enhance or annul the assessment, or

(b) set aside the assessment and direct the Income-tax Officer to make a fresh assessment after making such further inquiry as the Income tax Officer thinks fit or the Assistant Commissioner may direct, and the Income-tax Officer shall thereupon proceed to make such fresh assessment,

or, in the cases of an order under sub-section (2) of section 25 or section 28,

(c) confirm, cancel or vary such order :

Provided that the Assistant Commissioner shall not enhance an assessment unless the appellant has had a reasonable opportunity of showing cause against such enhancement.

**32. (1)** Any assessee objecting to an order passed by an Assistant Commissioner under section 28 or to an order enhancing his assessment under sub-section (3) of section 31, may appeal to the Commissioner within thirty days of the making of such order.

(2) The appeal shall be in the prescribed form, and shall be verified in the prescribed manner.

(3) In disposing of the appeal the Commissioner may, after giving the appellant an opportunity of being heard, pass such orders thereon as he thinks fit.

**33. (1)** The Commissioner may of his own motion call for the record of any proceeding under this Act which has been taken by any authority subordinate to him or by himself when exercising the powers of an Assistant Commissioner under sub-section (4) of section 5.

(2) On receipt of the record the Commissioner may make such inquiry or cause such enquiry to be made and, subject to the provisions of this Act, may pass such orders thereon as he thinks fit :

Provided that he shall not pass any order prejudicial to an assessee without hearing him or giving him a reasonable opportunity of being heard.

**34.** If for any reason income, profits or gains chargeable to income-tax has escaped assessment in any year, or has been assessed at too low a rate, the Income-tax Officer may, at any time within one year of the end of that year, serve on the person liable to pay tax on such income, profits or gains, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22, and may proceed to assess or reassess such income, profits or gains, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section :

Income escaping assessment. Provided that the tax shall be charged at the rate at which it would have been charged had the income, profits or gains not escaped assessment or full assessment, as the case may be.

**35. (1)** The Income-tax Officer may, at any time within one year from the date of any demand made upon an assessee, on his own motion rectify any mistake apparent from the record of the assessment, and shall within the like period rectify any such mistake which has been brought to his notice by such assessee :

Rectification of mistake. Provided that no such rectification shall be made, having the effect of enhancing an assessment unless the Income-tax Officer has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee.

(3) Where any such rectification has the effect of enhancing the assessment, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 29, and the provisions of this Act shall apply accordingly.

**36.** In the determination of the amount of tax or of a refund payable under this Act, fractions of an anna less than six pies shall be disregarded and fractions of an anna equal to or exceeding six pies shall be regarded as one anna.

Tax to be calculated to nearest anna.

**37.** The Income-tax Officer, Assistant Commissioner and Commissioner shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908,\* when trying a suit in respect of the following matters, namely :—

Power to take evidence on oath, etc.

(a) enforcing the attendance of any person and examining him on oath or affirmation ;

(b) compelling the production of documents ; and

(c) issuing commissions for the examination of witnesses ;

and any proceeding before an Income-tax Officer, Assistant Commissioner or Commissioner under this Chapter shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 of the Indian Penal Code,\*

**38.** The Income-tax Officer or Assistant Commissioner may, for the purposes of this Act,—

Power to call for information.

(1) require any firm, or Hindu undivided family to furnish him with a return of the members of the firm, or of the manager or adult male members of the family, as the case may be, and of their addresses ;

(2) require any person whom he has reason to believe to be a trustee, guardian, or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian, or agent, and of their addresses.

**39.** The Income-tax Officer or Assistant Commissioner, or any person authorised in writing in this behalf by the Income-tax Officer or Assistant Commissioner, may inspect and, if necessary, take copies, or cause copies to be taken, of any register of the members, debenture holders or mortgagees of any company or of any entry in such register.

Power to inspect the register of members of any company.

## CHAPTER V.

### LIABILITY IN SPECIAL CASES.

**40.** In the case of any guardian, trustee or agent of any person being a minor, lunatic or idiot or residing out of British India (all of which persons are hereinafter in this section included in the term beneficiary) being in receipt on behalf of such beneficiary of any income, profits or gains chargeable under this Act the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from any such beneficiary if of full age, sound mind, or resident in British India, and in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly.

Guardians, trustees and agents,

#### NOTE

Income accruing to an executor is liable to be taxed, 19C.W. N 138.



**41.** In the case of income, profits or gains chargeable under this Act which are received by the Courts of Wards, the Administrators-General, the Official Trustees or by any receiver or manager (including any person whatever his designation who in fact manages property on behalf of another) appointed by or under any order of a Court, the tax shall be levied upon and recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or manager in the like manner and to the same amount as it would be leviable upon and recoverable from any person on whose behalf such income, profits or gains are received, and all the provisions of this Act shall apply accordingly.

**42.** (1) In the case of any person residing out of British India, all profits or gains accruing or arising, to such person, whether directly or indirectly, through or from any business connection or property in British India, shall be deemed to be income accruing or arising within British India, and shall be chargeable to income-tax in the name of the agent of any such person, and such agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax :

Provided that any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of the non-resident person which are, or may at any time come, within British India.

(2) Where a person not resident in British India, and not being a British subject or a firm or company constituted within His Majesty's dominions or a branch thereof, carries on business with a person resident in British India, and it appears to the Income-tax Officer or the Assistant Commissioner, as the case may be, that owing to the close connection between the resident and the non-resident person and to the substantial control exercised by the non-resident over the resident, the course of business between those persons is so arranged, that the business done by the resident in pursuance of his connection with the non-resident produces to the resident either no profits or less than the ordinary profits which might be expected to arise in that business, the profits derived therefrom or which may reasonably be deemed to have been derived therefrom, shall be chargeable to income-tax in the name of the resident person who shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax.

#### NOTES.

Where non-resident foreigner derives benefit by his business in British India, the profits and gains made by him are profits and gains from his business in British India and he is assessable under this section. The latter part of the section only lays down the mode of levying tax in the case where it cannot be got from the non-resident member himself. 44 M. 773.

Agent to include persons treated as such.

**43.** Any person employed by or on behalf of a person residing out of British India, or having any business connection with such person, or through whom such person is in the receipt of any income, profits or gains upon whom the Income-tax Officer has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for all the purposes of this Act, be deemed to be such agent :

Provided that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the Income-tax Officer as to his liability.

Liability in case of a discontinued firm or partnership.

**44.** Where any business, profession or vocation carried on by a firm has been discontinued, every person who was at the time of such discontinuance a member of such firm shall be jointly and severally liable for the amount of the tax payable in respect of the income, profits and gains of the firm.

## CHAPTER VI.

### RECOVERY OF TAX AND PENALTIES.

Tax when payable.

**45.** Any amount specified as payable in a notice of demand under section 29 or an order under section 31 or section 32 or section 33, shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order, and any assessee failing so to pay shall be deemed to be in default, provided that, when an assessee has presented an appeal under section 30, the Income-tax Officer may in his discretion treat the assessee as not being in default as long as such appeal is undisposed of.

Mode and time of recovery.

**46.** (1) When an assessee is in default in making a payment of income-tax, the Income-tax Officer may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty.

(2) The Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee, and the Collector, on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land-revenue.

(3) In any area with respect to which the Commissioner has directed that any arrears may be recovered by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the province, the Income-tax Officer may proceed to recover the amount due by such process.

(4) The Commissioner may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (3).

(5) If any assessees is in receipt of any income chargeable under the head "Salaries," the Income-tax Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears due from such assessee, and such person shall comply with any such requisition, and shall pay the sums so deducted to the credit of the Government of India, or as the Board of Inland Revenue directs.

(6) The Local Government may direct, with respect to any specified area, that income-tax shall be recovered therein, with, and as an addition to, any municipal tax or local rate by the same person and in the same manner as the municipal tax or local rate is recovered.

(7) Save in accordance with the provisions of subsection (1) of section 42, no proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the last day of the year in which any demand is made under this Act.

#### NOTES.

Vide 7M. 434 ; 41M. 691 ; 26M. 230,

*Recovery of penalties.* **47.** Any sum imposed by way of penalty under the provisions of sub-section (2) of section 25, section 28 or sub-section (1) of section 46, shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax.

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## CHAPTER VII.

### REFUNDS.

*Refunds.* **48.** (1) If a shareholder in a company who has received any dividend therefrom satisfies the Income-tax Officer that the rate of income-tax applicable to the profits or gains of the company at the time of the declaration of such dividend is greater than the rate applicable to his total income of the year in which such dividend was

declared, he shall, on production of the certificate received by him under the provision of section 20, be entitled to a refund on the amount of such dividend (including the amount of the tax thereon) calculated at the difference between those rates.

(2) If a member of a registered firm satisfies the Income-tax Officer that the rate of income-tax applicable to his total income of the previous year was less than the rate at which income-tax has been levied on the profits or gains of the firm of that year, he shall be entitled to a refund on his share of those profits or gains calculated at the difference between those rates.

(3) If the owner of a security from the interest on which, or any person from whose salary, income-tax has been deducted in accordance with the provisions of section 18, satisfies the Income-tax Officer that the rate of income-tax applicable to his total income of the previous year was less than the rate at which income-tax has been charged in making such deduction in that year, he shall be entitled to a refund on the amount of interest or salary from which such deduction has been made calculated at the difference between those rates.

**49.** (1) If any person who has paid Indian income tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid United Kingdom income-tax for that year in respect of the same part of his income, and that the rate at which he was entitled to, and has obtained, relief under the provisions of section 27 of the Finance Act, 1920,\* is less than the Indian rate of tax charged in respect of that part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate equal to the difference between the Indian rate of tax and the rate at which he was entitled to, and obtained, relief under that section :

Relief in respect of United Kingdom income-tax.

Provided that the rate at which the refund is to be given shall not exceed one-half of the Indian rate of tax.

(2) In sub-section (1)—

(a) the expression "Indian income-tax" means income-tax and super-tax charged in accordance with provisions of this Act;

(b) the expression "Indian rate of tax" means the amount of the Indian income-tax divided by the income on which it was charged;

(c) the expression "United Kingdom income-tax" means income-tax and super tax chargeable in accordance with the provisions of the Income tax Acts.

**50.** No claim to any refund of income-tax under this Chapter shall be allowed, unless it is made within one year from the last day of the year in which the tax was recovered.

Limitation of claims for refund.

## CHAPTER VIII.

### OFFENCES AND PENALTIES.

Failure to make payments or deliver returns or statements or allow inspection.

**51.** If a person fails without reasonable cause or excuse—

- (a) to deduct and pay any tax as required by section 18 or under sub-section (5) of section 46 ;
- (b) to furnish a certificate required by sub-section (9) of section 18 or by section 20 to be furnished ;
- (c) to furnish in due time any of the returns mentioned in section 21, section 22, or section 38 ;
- (d) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (4) of section 22, such accounts and documents as are referred to in the notice ;
- (e) to grant inspection or allow copies to be taken in accordance with the provisions of section 39,

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

#### NOTES.

*Vide*—15 C. W. N. 906 ; 43 M. 498, 40 A. 569, 12 A. L. J. 740, 119 P. L. R. 1915.

**52.** If a person makes a statement in a verification mentioned in section 22, or sub-section (3) of section 30, or sub-section (2) of section 32 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code.

False statement in declaration.

#### NOTES.—36 M. 79.

**53.** (1) A person shall not be proceeded against for an offence under section 51 or section 52 except at the instance of the Assistant Commissioner.

Prosecution to be at instance of Assistant Commissioner.

(2) The Assistant Commissioner may stay any such proceeding or compound any such offence.

**54.** (1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Chapter, or in any record of any assessment proceeding, or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872,\* no Court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof.

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine :

Provided that nothing in this section shall apply to the disclosure—

- (a) of any such particulars for the purposes of a prosecution under section 193 of the Indian Penal Code† in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution under this Act, or
- (b) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act, or
- (c) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or
- (d) of such facts, to an authorised officer of the United Kingdom, as may be necessary to enable relief to be given under section 27 of the Finance Act, 1920,‡ or a refund to be given under section 49 of this Act :

Provided, further, that no prosecution shall be instituted under this section except with the previous sanction of the Commissioner.

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\* I of 1872.

† XLV of 1860.

‡ 10 & 11 Geo. V. Ch. 18.

## CHAPTER IX.

## SUPER-TAX.

**55.** In addition to the income-tax charged for any year, there shall be charged, levied and paid for that year in respect of the total income of the previous year of any individual, unregistered firm, Hindu undivided family or company, an additional duty of income-tax (in this Act referred to as super-tax) at the rate or rates laid down for that year by Act of the Indian Legislature :

Charge of super-tax.

Provided that, where the profits and gains of an unregistered firm have been assessed to super-tax, super-tax shall not be payable by an individual having a share in the firm in respect of the amount of such profits and gains which is proportionate to his share.

**56.** Subject to the provisions of this Chapter, the total income of any individual, unregistered firm, Hindu undivided family or company shall, for the purposes of super-tax, be the total income as assessed for the purposes of income-tax, and where an assessment of total income has become final and conclusive for the purposes of income-tax for any year, the assessment shall also be final and conclusive for the purposes of super-tax for the same year.

Total income for purposes of super-tax.

**57, (1)** In the case of any assessee residing out of British India who is a member of a registered firm, and whose share of the profits from such firm is liable to super-tax, the remaining members of such firm who are resident in British India shall be jointly and severally liable to pay the super-tax due from the non-resident member in respect of such share.

Non-resident partners and shareholders.

(2) Where any assessee who is liable to pay super-tax on the amount of the dividends receivable by him from any company is, to the knowledge of the principal officer of the company, residing out of British India, the principal officer shall be liable to pay the super-tax due by such non-resident person in respect of the dividends received by him from the company, and shall have power to deduct the amount of such super-tax from the amount payable by the company to such assessee.

(3) Where any person pays any tax under the provisions of this section on account of an assessee who is residing out of British India, credit shall be given therefor in determining the amount of the tax to be payable by any agent of such non-resident assessee under the provisions of sections 42 and 43.

**58.** (1) All the provisions of this Act, except section 3, the proviso to sub-section (1) of section 7, the provisos to section 8, sub-section (2) of section 14, and sections 15, 17, 18, 19, 20, 21 and 48 shall apply, so far as may be, to the charge, assessment, collection and recovery of super-tax.

(2) Save as provided in section 57, super-tax shall be payable by the assessee direct.

## CHAPTER X.

### MISCELLANEOUS.

**59.** (1) The Board of Inland Revenue may, subject to the control of the Governor General in Council, make rules for carrying out the purposes of this Act and for the ascertainment and determination of any class of income. Such rules may be made for the whole of British India or for such part thereof as may be specified.

(2) Without prejudice to the generality of the fore-going power, such rules may—

(a) prescribe the manner in which, and the procedure by which, the income, profits and gains shall be arrived at in the case of—

(i) incomes derived in part from agriculture and in part from business ;

(ii) insurance companies ;

(iii) persons residing out of British India ;

(b) prescribe the procedure to be followed on applications for refunds ;

(c) provide for such arrangements with His Majesty's Government as may be necessary to enable the appropriate relief to be granted under section 27 of the Finance Act, 1920,\* or under section 49 of this Act ;

(d) prescribe the year which, for the purpose of relief under section 49, is to be taken as corresponding to the year of assessment for the purposes of section 27 of the Finance Act, 1920 ;\* and

(e) provide for any matter which by this Act is to be prescribed.



(3) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

(4) Rules made under this section shall be published in the Gazette of India, and shall thereupon have effect as if enacted in this Act.

#### NOTES.

In calculating the total profits mentioned in rule (2) of the rules passed under old s. 43 (2) which corresponds to this section, of a person residing out of British India the assignee is not entitled to have the income tax and excess profits duties payable in England deducted from it. 44 M. 489=40 M. L. J. 560.

**60.** The Governor General in Council may, by notification in the Gazette of India, make an exemption, reduction in rate or other modification, in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any class of persons.

Power to make exemptions, etc.

**61.** Any assessee, who is entitled or required to attend before any income-tax authority in connection with any proceedings under this Act, may attend either in person or by any person authorised by him in writing in this behalf.

Appearance by authorised representative.

**62.** A receipt shall be given for any money paid or recovered under this Act.

Receipts to be given.

**63.** (1) A notice or requisition under this Act may be served on the person therein named either by post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908\*.

Service of notice.

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or on the manager, or any adult male member of the family.

**64.** (1) Where an assessee carries on business at any place, he shall be assessed by the income-tax Officer of the area in which that place is situate or, where the business is carried on in more places than one, by the Income-tax Officer of the area in which his principal place of business is situate.

Place of assessment.

(2) In all other cases, an assessee shall be assessed by the Income-tax Officer of the area in which he resides.

(3) Where any question arises under this section as to the place of assessment, such question shall be determined by the Commissioner, or, where the question is between places in more provinces than one, by the Commissioners concerned, or, if they are not in agreement, by the Board of Inland Revenue :

Provided that, before any such question is determined, the assessee shall have had an opportunity of representing his views.

(4) Notwithstanding anything contained in this section, every Income-tax Officer shall have all the powers conferred by or under this Act on an Income-tax Officer in respect of any income, profits or gains accruing, or arising or received within the area for which he is appointed.

#### NOTES.

42 M. 455 ; 34 M. L. J. 148 ; 34 M. 257 (P. C.) ; 44 M. 773.

**65.** Every person deducting, retaining or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof.

Statement of case by Commissioner to High Court.

**66.** (1) If, in the course of any assessment under this Act or any proceeding in connection therewith other than a proceeding under Chapter VIII, a question of law arises, the Commissioner may, either on his own motion or on reference from any Income-tax authority subordinate to him, draw up a statement of the case and refer it with his own opinion thereon to the High Court.

(2) Within one month of the passing of an order under section 31 or section 32, the assessee in respect of whom the order was passed may, by application accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed, require the Commissioner to refer to the High Court any question of law arising out of such order and the Commissioner shall, within one month of the receipt of such application, draw up a statement of the case and refer it with his own opinion thereon to the High Court :

Provided that, if, in exercise of his power of review under section 33, the Commissioner decides the question, the assessee may withdraw his application, and if he does so, the fee paid shall be refunded.

(3) If, on any application being made under sub-section (2), the Commissioner refuses to state the case on the ground that no question of law arises, the assessee may apply to the High Court, and the High Court, if it is not satisfied of the correctness of the Commissioner's decision, may require the Commissioner to state the case and to refer it, and, on receipt of any such requisition, the Commissioner shall state and refer the case accordingly.

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Commissioner by whom it was stated to make such additions thereto or alterations therein as the Court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the questions of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Commissioner by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Commissioner shall dispose of the case accordingly, or, if the case arose on a reference from any Income-tax authority subordinate to him, shall forward a copy of such judgment to such authority who shall dispose of the case conformably to such judgment.

(6) Where a reference is made to the High Court on the application of an assessee, the costs shall be in the discretion of the Court.

(7) Notwithstanding that a reference has been made under this section to the High Court, income-tax shall be payable in accordance with the assessment made in the case :

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow.

#### NOTES.

See 44M. 718; 23 Bom. L. R. 1267; 45 B. 1064; 45 B. 881; 48 C. 161, 43A. 139; 45 B. 1286; 31 M. L. J. 698, 44 M. 718.

**Costs.**—48 C. 766; 18 B. 474; 43 M. 75; 44 M. 65; 44 M. 489; 44 M. 768; 44 M. 773; 15 L. W. 496; 45 B. 1286; 45 B. 1177; 29 B. 233.

**Appeal**—23 Bom. L. R. 1102.

**67.** No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any Government officer for anything in good faith done or intended to be done under this Act.

#### NOTES.

Vide 42 C. 151; 62 Ind. Cas. 394; 26 C. W. N. 506; 17 C. 509 (P. C.); 44 M. 718; 41 M. 792; 35 M. L. J. 23; 45 B. 881; 45 B. 1064.

**68.** The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof :

Repeals.

Provided that such repeal shall not affect the liability of any person to pay any sum due from him or any existing right of refund under any of the said enactments :

Provided, further, that the provisions of section 19 of the Indian Income-tax Act, 1918,\* shall apply, so far as may be, to all assessments made under that Act in the year ending on the 31st day of March, 1922, and where an adjustment shall be made under the provisions of section 19 of the said Act, the provisions of this Act regarding the procedure for the assessment and recovery of income-tax shall apply as if such adjustment were an assessment made under this Act.

THE SCHEDULE  
ENACTMENTS REPEALED.  
(See section 68.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
1918	VII	The Indian Income-tax Act, 1918	The whole.
1919	IV	The Indian Income-tax (Amendment) Act, 1919.	The whole.
„	XVIII	The Repealing and Amending Act, 1919.	So much of the First Schedule as relates to the Indian Income-tax Act, 1918,
1920	XVII	The Indian Income-tax (Amendment) Act, 1920.	The whole.
„	XIX	The Super-tax Act, 1920.	The whole.
„	XXX	The Repealing and Amending Act, 1920.	So much of the First Schedule as relates to the Super-tax Act, 1920.
„	XLIV	The Indian Income-tax (Amendment No. 2) Act, 1920.	The whole.

N B.—For rates of Income-tax and Super-tax *vide* Sch. III of Act XII of 1922 (*infra*).

\* VII of 1918.

**ACT NO. XII OF 1922.**

[PASSED BY THE INDIAN LEGISLATURE.]

*Received the assent of the Governor General on the 27th March, (1922.)*

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, further to amend the Indian Tariff Act, 1894, and the Indian Post Office Act, 1898, to amend the Indian Paper Currency (Amendment) Act, 1920, to impose an excise duty on kerosene, to fix rates of income-tax and to abolish the freight tax.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, further to amend the Indian Tariff Act, 1894,\* and the Indian Post Office Act, 1898,† to amend the Indian Paper Currency (Amendment) Act, 1920,‡ to impose an excise duty on kerosene, to fix rates of income-tax and to abolish the freight tax ; It is hereby enacted as follows :—

Short title, extent and duration.                      **1.** (1) This Act may be called the Indian Finance Act, 1922.

(2) It extends to the whole of British India, including the Sonthal Parganas and, except as regards section 5, British Baluchistan.

(3) Section 2, 4 and 7 shall remain in force only up to the 31st day of March, 1923.

Fixation of salt duty.                      **2.** With effect from the first day of March, 1922, the provisions of section 7 of the Indian Salt Act, 1882,§ shall, in so far as they enable the Governor General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma and Aden, be construed as if they imposed such duty at the rate of one rupee and four annas per maund of eighty two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

Amendment of Act VIII of 1894.                      **3.** (1) With effect from the first day of March, 1922, for the Second Schedule to the Indian Tariff Act, 1894,\* the Schedule contained in the First Schedule to this Act shall be substituted.

\* VIII of 1894.

VI of 1898.

‡ XLV of 1920.

§ XII of 1882.

(2) With effect from the same date, section 2 of the Indian Finance Act, 1921,\* and the First Schedule to that Act shall be repealed.

Amendment of Act VI of 1898.

4. With effect from the first day of April, 1922, the Schedule contained in the Second Schedule to this Act shall be inserted in the Indian Post Office Act, 1898,† as the First Schedule to that Act.

Imposition of excise duty on kerosene.

5. With effect from the first day of March, 1922, the provisions of the Motor Spirit (Duties) Act, 1917,‡ which provide for the levy and collection of an excise duty on motor spirit, that is to say, all the provisions of that Act except section 6 thereof, shall apply also for the purpose of the levy and collection of an excise duty on kerosene as if references in the said Act to motor spirit (other than the reference in the second clause of section 2 thereof) were references to kerosene :

Provided that the duty on kerosene shall be levied and collected at the rate of one anna on each imperial gallon.

*Explanation.*—For the purposes of this section, “kerosene” means any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons but excluding motor spirit) which—

- (a) is made from petroleum as defined in section 2 of the Indian Petroleum Act, 1899,§ and
- (b) is intended to be, or is ordinarily, used in liquid form for purposes of illumination.

Amendment of Act XLV of 1920.

6. In sub-section (3) of section 13 of the Indian Paper Currency (Amendment) Act, 1920,|| for the figure “1921” the figure “1923” shall be substituted with effect from the first day of April, 1921.

Income-tax and super-tax.

7. (1) Income-tax for the year beginning on the first day of April, 1922, shall be charged at the rates specified in Part I of the Third Schedule.

(2) The rates of super-tax for the year beginning on the first day of April, 1922, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922,¶ be those specified in Part II of the Third Schedule.

(3) For the purposes of the Third Schedule “total income” means total income as defined in clause (15) of section 2 of the Indian Income-tax Act, 1922.\*

Repeal of Act. XIII of 1917.

8 With effect from the first day of April, 1922, the Freight (Railway and Inland Steam-vessel) Tax Act, 1917, \*\* shall be repealed.

\* VI of 1921.

† VI of 1898.

‡ II of 1917.

§ VIII of 1899.

|| XLV of 1920.

¶ XI of 1922.

\*\* XIII of 1917.

**SCHEDULE I.**

**Schedule to be substituted in the Indian Tariff Act,  
1894.**

[ *See section 3 (1.)* ]

**SCHEDULE II—IMPORT TARIFF.****PART I.**

Articles which are free of duty.

No.	Names of Articles.
	<b>I.—Food, Drink and Tobacco—</b>
1	HOPS.
2	SALT imported into British India and issued, in accordance with rules made with the previous sanction of the Governor General in Council, for use in any process of manufacture; also salt imported into the port of Calcutta and issued with the sanction of the Government of Bengal to manufacturers of glazed stone-ware; also salt imported into any port in the provinces of Bengal, Bihar and Orissa and issued, in accordance with rules made with the previous sanction of the Governor General in Council, for use in curing fish in those provinces.
	(For the general duty on salt, <i>see</i> No. 35.)
	<b>II.—Raw materials and produce and articles mainly un-manufactured—</b>
	<b>HIDES AND SKINS, RAW.</b>
3	HIDES AND SKINS, raw or salted.
	<b>METALLIC ORES.</b>
4	METALLIC ORES, all sorts.
	<b>PRECIOUS STONES AND PEARLS.</b>
5	PRECIOUS STONES, unset and imported uncut, and PEARLS, unset.
	<b>SEEDS.</b>
6	OIL-SEEDS imported into British India by sea from the territories of any Prince or Chief in India

## SCHEDULE II—IMPORT TARIFF.

PART I—*contd.*

## Articles which are free of duty.

No.	Names of Articles.
<b>TEXTILE MATERIALS.</b>	
7	COTTON, raw.
8	WOOL, raw, and WOOL-TOPS.
<b>MISCELLANEOUS.</b>	
9	MANURES, all sorts, including animal bones and the following chemical manures :—Basic slag, nitrate of ammonia, nitrate of soda, muriate of potash, sulphate of ammonia, sulphate of potash, kainit salts, nitrate of lime, calcium cyanamide, mineral phosphates and mineral superphosphates
10	PULP OF WOOD, BAGS and other paper-making materials.
<b>III.—Articles wholly or mainly manufactured—</b>	
<b>APPAREL.</b>	
11	UNIFORMS AND ACCOUTREMENTS appertaining thereto, imported by a public servants for his personal use.
<b>ARMS, AMMUNITION AND MILITARY STORES.</b>	
12	The following ARMS, AMMUNITION AND MILITARY STORES :—
	<p>(a) Articles falling under the 5th, 6th, 8th, 9th or 10th item of No. 42, when they appertain to a firearm falling under the 1st or 3rd item and are fitted into the same case with such firearm.</p> <p>(b) Arms forming part of the regular equipment of a commissioned or gazetted officer in His Majesty's Service entitled to wear diplomatic, military, naval, Royal Air Force or police uniform.</p> <p>(c) A revolver and an automatic pistol and ammunition for such revolver and pistol up to a maximum of 100 rounds per revolver or pistol, (i) when accompanying a commissioned officer of His Majesty's regular forces, or of the Indian Auxiliary Force or the Indian Territorial Force or a gazetted police officer, or (ii) certified by the commandant of the corps to which such officer belongs, or, in the case of an officer not attached to any corps, by the officer commanding the station or district in which such officer is serving, or, in the case of a police officer, by an Inspector General or Commissioner of Police, to be imported by the officer for the purpose of his equipment.</p> <p>(d) Swords for presentation as army or volunteer prizes.</p>



## SCHEDULE II—IMPORT TARIFF.

PART I—*contd.*

## Articles which are free of duty.

No.	Names and Articles.
	<p>(e) Arms, ammunition, and military stores imported with the sanction of the Government of India for the use of any portion of the military forces of a State in India which may be maintained and organized for Imperial Service.</p> <p>(f) Morris tubes and patent ammunition imported by officers commanding British and Indian regiments or volunteer corps for the instruction of their men.</p>
	<b>CHEMICALS, DRUGS AND MEDICINES.</b>
13	ANTI-PLAGUE SERUM.
14	QUININE and other alkaloids of cinchona
	<b>HARDWARE, IMPLEMENTS AND INSTRUMENTS.</b>
15	The following AGRICULTURAL IMPLEMENTS, namely, winnowers, threshers, mowing and reaping machines, binding machines, elevators, seed-crushers, chaff-cutters, root-cutters, ensilage-cutters, horse and bullock gears, ploughs, cultivators, scarifiers, harrows, clod-crushers, seed-drills, hay-tedders, and rakes; also agricultural tractors; also component parts of these implements or tractors, provided that they can be readily fitted into their proper places in the implements or tractors for which they are imported, and that they cannot ordinarily be used for purposes unconnected with agriculture.
	<b>HARDWARE, IMPLEMENTS AND INSTRUMENTS—<i>contd</i></b>
16	The following DAIRY APPLIANCES namely, cream separators, milk sterilizing or pasteurizing plant, milk aerating and cooling apparatus, churns, butter dryers, and butter workers; also components parts of these appliances, provided that they can be readily fitted into their proper places in the appliances for which they are imported, and that they cannot ordinarily be used for other than dairy purposes.
17	INSTRUMENTS, APPARATUS and APPLIANCES, imported by a passenger as part of his personal baggage and in actual use by him in the exercise of his profession or calling.
18	WATER-LIFTS, SUGAR-MILLS, OIL-PRESSES, and parts thereof, when constructed so that they can be worked by manual or animal power.
	<b>METALS.</b>
19	CURRENT NICKEL, BRONZE, AND COPPER COIN of the Government of India.
20	GOLD AND SILVER BULLION and coin.

## SCHEDULE II—IMPORT TARIFF.

PART I—*contd.*

Articles which are free of duty.

No.	Names of Articles.
	<b>PAPER.</b>
21	TRADE CATALOGUES AND ADVERTISING CIRCULARS imported by packet, book, or parcel post.
	<b>YARNS AND TEXTILE FABRICS.</b>
22	SECOND-HAND OR USED GUNNY BAGS made of jute.
	<b>MISCELLANEOUS.</b>
23	ART, the following works of :—(1) statuary and pictures intended to be put up for the public benefit in a public place, and (2) memorials of a public character intended to be put in a public place, including the materials used, or to be used in their construction, whether worked or not.
24	Books printed, including covers for printed books, maps, charts, and plans, proofs, music and manuscripts.
	<b>IV.—Miscellaneous and unclassified—</b>
25	ANIMALS, living, all sorts.
26	SPECIMENS ILLUSTRATIVE OF NATURAL SCIENCE, and medals and antique coins.

## SCHEDULE II—IMPORT TARIFF.

PART II—*contd.*

Articles which are liable to duty at special rates.

No.	Names of Articles.	Unit or method of assessment.	Rate of duty.
	<b>II.—Raw Materials and produce and articles mainly unmanufactured—</b>  <b>COAL, COKE AND PATENT FUEL.</b>		Rs.    A.
39	COAL, COKE AND PATENT FUEL.	Ton ...            ...	0       8
	<b>OILS.</b>		
40	KEROSENE and MOTOR SPIRIT ; also any mineral oil other than kerosene and motor spirit which has its flashing point below one hundred degrees of Fahrenheit's thermometer by Abel's close test. <b>NOTE.</b> —Motor spirit is liable to an additional duty of 6 annas per gallon under Act II of 1917 as amended by Act III of 1919.	Imperial gallon ...	Two annas and six pies.
41	MINERAL OIL which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer and is such as is not ordinarily used for any other purpose than for the batching of jute or other fibre, or for lubrication, and mineral oil which has its flashing point at or above one hundred and fifty degrees of Fahrenheit's thermometer, and is such as is not ordinarily used except as fuel or for some sanitary or hygienic purpose.	<i>Ad valorem</i> ...	7½ per cent.

## SHEDULE II—IMPORT TARIFF.

PART II—*contd.*

Articles which are liable to duty at special rates.

No.	Names of Articles.	Unit or method of assessment.	Rate of duty.
	<b>III.—Articles wholly or mainly manufactured.</b>		Rs.    A.
	<b>ARMS, AMMUNITION AND MILITARY STORES.</b>		
42	Subject to the exemptions specified in No. 12—		
	(1) Firearms other than pistols, including gas and air-guns and rifles.	Each            ...	15
	(2) Barrels for the same whether single or double.	„                ...	15
	(3) Pistols, including automatic pistols and revolvers.	„                ...	15
	(4) Barrels for the same whether single or double.	„                ...	15
	(5) Main springs and magazine springs for firearms, including gas-guns and rifles.	„                ...	5
	(6) Gun stocks and breech blocks.	„                ...	3
	(7) Revolver-cylinders, for each cartridge they will carry.	„                ...	2
	(8) Actions (including skeleton and washer) breech bolts and their heads, cocking pieces, and locks for muzzle loading arms.	„                ...	1
	(9) Machines for making, loading, or closing cartridges for rifled arms.	<i>Ad valorem</i> ...	30 per cent.
	(10) Machines for capping cartridges for rifled arms.	<i>Ad valorem</i> ...	30 per cent.

or 30 per cent. *ad valorem*, whichever is higher.

## SCHEDULE II—IMPORT TARIFF.

PART II—*concl'd.*

Articles which are liable to duty at special rates.

No.	Names of Articles.	Unit or method of assessment.	Rate of duty.
	<b>CHEMICALS, DRUGS AND MEDICINES.</b>		
43	Opium and its alkaloides and their derivatives.	Seer of 80 tolas.	24 0
	<b>YARNS AND TEXTILE FABRICS.</b>		
44	COTTON TWIST AND YARN, and COTTON SEWING OR DARNING THREAD.	<i>Ad valorem</i> ...	5 per cent.
45	COTTON PIECE-GOODS ...	<i>Ad valorem</i> ...	11 per cent.
	<b>MISCELLANEOUS.</b>		
46	Matches—		R. A.
	(1) In boxes containing on the average not more than 100 matches.	Per gross of boxes	1 8
	(2) In boxes containing on the average more than 100 matches.	For every 25 matches or fraction thereof in each box, per gross of boxes.	0 8

## PART III.

Articles which are liable to duty at  $2\frac{1}{2}$  per cent. *ad valorem*.

No.	Names of Articles.
	<b>I.—Food, Drink and Tobacco—</b>
	<b>GRAIN, PULSE AND FLOUR.</b>
47	GRAIN AND PULSE, all sorts, including broken grains and pulse, but excluding flour ( <i>see</i> No. 68).
	<b>PROVISIONS AND OILMAN'S STORES.</b>
48	VINEGAR in casks.

## SCHEDULE II—IMPORT TARIFF.

PART III—*contd.*

Articles which are liable to duty at  $2\frac{1}{2}$  per cent. *ad valorem*—  
*contd.*

No.	Names of Articles.
<b>II.—Raw materials and produce and articles mainly unmanufactured—</b>	
<b>WOOD AND TIMBER.</b>	
49	FIREWOOD.
<b>III.—Articles wholly or mainly manufactured—</b>	
<b>CHEMICALS, DRUGS AND MEDICINES.</b>	
50	COPPERAS, green.
<b>MACHINERY.</b>	
51	MACHINERY, namely, prime-movers and component parts thereof, including boilers and component parts thereof ; also including locomotive and portable engines, steam-rollers, fire engines, motor tractors designed for purposes other than agriculture, and other machines in which the prime-mover is not separable from the operative parts.
MACHINERY (and component parts thereof), meaning machines or sets of machines to be worked by electric, steam, water, fire or other power not being manual or animal labour, or which, before being brought into use, require to be fixed with reference to other moving parts ; and including belting of all materials for driving machinery :	
Provided that the term does not include tools and implements to be worked by manual or animal labour, and provided also that only such articles shall be admitted as component parts of machinery as are indispensable for the working of the machinery, and are, owing to their shape or to other special quality, not adapted for any other purpose.	
<i>Note.</i> —This entry includes machinery and component parts thereof made of substances other than metal.	
<b>METALS OTHER THAN IRON AND STEEL.</b>	
52	LEAD sheets, for tea-chests.
<b>MISCELLANEOUS.</b>	
53	AEROPLANES, aeroplane parts, aeroplane engines and aeroplane engine parts.
54	PRINTING AND LITHOGRAPHING MATERIAL, namely, presses, type, ink, aluminium lithographic plates, brass rules, composing sticks, chases, imposing tables, and lithographic stones, stereo-blocks, wood blocks,

SCHEDULE II—IMPORT TARIFF—*contd.*PART III—*concl'd.*

Articles which are liable to duty at 2½ per cent. *ad valorem.*

No.	Names of Articles.
	half tone blocks, electrotpe blocks, roller moulds, roller frames and stocks, roller composition, standing screw and hot press, perforating machines, gold blocking presses, galley presses, proof presses, arming presses, copper plate printing presses, rolling presses, ruling machines, ruling pen making machines, lead and rule cutters, type casting machines, type setting and casting machines, rule bending machines, rule mitreing machines, bronzing machines, leads, wooden and metal quoins, shooting sticks and galleys, stereotyping apparatus, metal furniture, paper folding machines, and paging machines, but excluding paper ( <i>see</i> No. 99).
55	RACKS for the withering of tea leaf.
56	TEA-CHESTS of metal or wood, whether imported entire or in sections provided that the Collector of Customs is satisfied that they are imported for the purpose of the packing of tea for transport in bulk.
57	FODDER, BRAN AND POLLARDS.

## PART IV.

Articles which are liable to duty at 10 per cent. *ad valorem.*

No.	Names of Articles.
	<b>II.—Raw materials and produce and articles mainly unmanufactured—</b>
	<b>METALLIC ORES AND SCRAP IRON OR STEEL FOR RE-MANUFACTURE.</b>
58	IRON OR STEEL, old.
	<b>III.—Articles wholly or mainly manufactured—</b>
	<b>HARDWARE, IMPLEMENTS AND INSTRUMENTS.</b>
59	TELEGRAPHIC INSTRUMENTS AND APPARATUS, and parts thereof imported by, or under the orders of, a Railway Company.

SCHEDULE II—IMPORT TARIFF.—*contd.*PART IV—*contd*

Articles which are liable to duty at 10 per cent. *ad valorem*.

No.	Names of Articles.
	METALS—IRON AND STEEL.
60	IRON, angle.
	,, bar, rod and channel, including channel for carriages.
	,, pig.
	,, rice bowls.
61	IRON OR STEEL, anchors and cables.
	,, ,, beams, joists, pillars, girders screw piles, bridge work and other descriptions of iron or steel, imported exclusively for building purposes, including also ridging, guttering and continuous roofing.
	,, ,, bolts and nuts, including hook-bolts and nuts for roofing.
	,, ,, hoops and strips.
	,, ,, nails, rivets and washers, all sorts.
	,, ,, pipes and tubes and fittings therefor, such as bends, boots, elbows, tees, sockets, flanges, and the like.
	,, ,, rails, chairs, sleepers, bearing and fish-plates, spikes (commonly known as dog-spikes,) switches and crossings, other than those described in No. 63, also lever-boxes, clips and tie-bars.
	,, ,, sheets and plates, all sorts excluding discs and circles which are dutiable under No. 97.
	,, ,, wire, including fencing wire, piano-wire and wire-rope, but excluding wire-netting which is dutiable under No. 97.
62	STEEL, angle.
	,, bar, rod and channel, including channel for carriages.
	,, cast, including spring blistered and tub steel.
	,, ingots, blooms, billets and slabs.



SCHEDULE II—IMPORT TARIFF—*contd.*PART IV—*concl.*Articles which are liable to duty at 10 per cent. *ad valorem*.

No.	Names of Articles.
<b>RAILWAY PLANT AND ROLLING-STOCK.</b>	
63	RAILWAY MATERIALS for permanent-way and rolling-stock, namely, cylinders, girders, and other material for bridges, rails, sleepers, bearing and fish-plates, fish-bolts, chairs, spikes, crossings, sleeper fastenings, switches, interlocking apparatus, brake gear, couplings and springs, signals, turn-tables, weigh-bridges, engines, tenders, carriages, wagons, traversers, trollies, trucks and component parts thereof; also the following articles when imported by, or under the orders of, a railway company, namely, cranes, water cranes, water tanks, and standards, wire and other materials for fencing.
<b>RAILWAY PLANT AND ROLLING-STOCK—<i>contd.</i></b>	
Provided that for the purpose of this entry 'railway' means a line of railway subject to the provisions of the Indian railways Act, 1890, and includes a railway constructed in a State in India and also such tramways, as the Governor General in Council may, by notification in the Gazette of India, specifically include therein:	
Provided also that only such articles shall be admitted as component parts of railway materials as are indispensable for the working of railways, and are, owing to their shape or to other special quality, not adapted for any other purpose.	
64	SHIPS AND OTHER VESSELS for inland and harbour navigation, including steamers, launches, boats and barges imported entire or in sections.

## PART V.

Articles which are liable to duty at 15 per cent. *ad valorem*.

No.	Names of Articles.
<b>I.—Food, Drink and Tobacco—</b>	
<b>FISH.</b>	
65	FISH, excluding salted fish (see No. 27).
66	FISHMAWS, including singally and sozille. and sharkfins.
<b>FRUITS AND VEGETABLES.</b>	
67	FRUITS AND VEGETABLES, all sorts, fresh, dried, salted or preserved.

SCHEDULE II—IMPORT TARIFF—*contd.*PART V—*contd.*Articles which are liable to duty at 15 per cent. *ad valorem*.

No.	Names of Articles.
GRAIN, PULSE AND FLOUR.	
68	FLOUR.
PROVISIONS AND OILMAN'S STORES.	
69	PROVISIONS AND OILMAN'S STORES AND GROCERIES, all sorts, excluding vinegar in casks (see No. 48).
SPICES.	
70.	SPICES, all sorts.
TEA.	
71	TEA.
OTHER FOOD AND DRINK.	
72	COFFEE.
73	All other sorts of Food and Drink not otherwise specified.
II.—Raw materials and produce and articles mainly unmanufactured—	
GUMS, RESINS AND LAC.	
74	GUMS, RESINS AND LAC, all sorts.
OILS.	
75	All sorts of animal, essential, mineral and vegetable non-essential oils not otherwise specified (see Nos. 40 and 41.)
SEEDS.	
76	SEEDS, all sorts, excluding oil-seeds imported into British India by sea from the territories of any Prince or Chief in India (see No. 6).
TALLOW, STEARINE AND WAX.	
77	TALLOW AND STEARINE, including grease and animal fat, and wax of all sorts not otherwise specified.

## SCHEDULE II—IMPORT TARIFF.

PART V—*contd.*

Articles which are liable to duty at 15 per cent. *ad valorem*.

No.	Names of Articles.
	<b>TEXTILE MATERIALS.</b>
78	<b>TEXTILE MATERIALS</b> , the following :— Silk waste, and raw silk including cocoons, raw flax, hemp, jute and all other unmanufactured textile materials not otherwise appcified.
	<b>WOOD AND TIMBER.</b>
79	<b>WOOD AND TIMBER</b> , all sorts, not otherwise specified, including all sorts of ornamental wood.
	<b>MISCELLANEOUS.</b>
80	<b>CANES AND RATTANS.</b>
81	<b>COWRIES</b> and <b>SHELLS.</b>
82	<b>IVORY</b> , unmanufactured.
83	<b>PRECIOUS STONES</b> , unset and imported cut (see No. 5).
84	All other raw materials and produce and articles mainly unmanufactured, not otherwise specified.
	<b>III—Articles wholly or mainly manufactured—</b>
	<b>APPAREL</b>
85	<b>APPAREL</b> , including drapery, boots and shoes, and military and other uniforms and accoutrements, but excluding uniforms and accoutrements exempted from duty under No. 11 and gold and silver thread (see Nos. 132 and 133), and articles made of silk (see No. 134).
	<b>ARMS, AMMUNITION AND MILITARY STORES.</b>
86	<b>EXPLOSIVES</b> , namely, blasting gunpowder, blasting gelatine, blasting dynamite, blasting robourite, blasting tonite, and all other sorts, including detonators and blasting fuze.

SCHEDULE II — IMPORT TARIFF—*contd.*PART V.—*contd.*

Articles which are liable to duty at 15 per cent. *ad valorem*.

No.	Names of Articles.
<b>CARRIAGES AND CARTS</b>	
87	CARRIAGES AND CARTS, including tram cars, motor-omnibuses, motor-lorries, motor-vans, jinrikshas, bath-chairs, perambulators, trucks, wheel barrows, and all other sorts of conveyances not otherwise specified, and such component parts and accessories thereof, as are not also adapted for use as parts or accessories of motor-cars. motor-cycles, motor-scooters, bicycles or tricycles (see No. 127).
<b>CHEMICALS, DRUGS AND MEDICINES.</b>	
88	CHEMICALS, DRUGS AND MEDICINES, all sorts, not otherwise specified.
<b>CUTLERY, HARDWARE, IMPLEMENTS AND INSTRUMENTS.</b>	
89	CUTLERY, excluding plated cutlery (see No. 129).
90	HARDWARE, IRONMONGERY AND TOOLS, all sorts, otherwise specified.
91	All other sorts of IMPLEMENTS, INSTRUMENTS, APPARATUS AND APPLIANCES and parts thereof, not otherwise specified.
<b>DYES AND COLOURS.</b>	
92	DYEING AND TANNING SUBSTANCES, all sorts, and paints and colours and painters' materials, all sorts.
<b>FURNITURE, CABINET WARE AND MANUFACTURES OF WOOD.</b>	
93	FURNITURE, CABINETWARE and all other manufactures of wood not otherwise specified.
<b>GLASSWARE AND EARTHENWARE.</b>	
94	GLASS AND GLASSWARE, lacquered ware, earthenware, china and porcelain; all sorts except glass bangles and beads and false pearls (see No. 131.)
<b>HIDES AND SKINS AND LEATHER.</b>	
95	HIDES AND SKINS not otherwise specified, LEATHER AND LEATHER MANUFACTURES, all sorts, not otherwise specified.

SCHEDULE II—IMPORT TARIFF.—*contd.*PART V—*contd.*

Articles which are liable to duty at 15 per cent. *ad valorem*.

No.	Names of Articles.
	<b>MACHINERY.</b>
96	MACHINERY AND COMPONENT PARTS thereof, meaning machines or parts of machines to be worked by manual or animal labour, not otherwise specified ( <i>see</i> Nos. 15, 16 and 18.)
	<b>METALS—IRON AND STEEL.</b>
97	All sorts of IRON AND STEEL and manufactures thereof, not otherwise specified.
	<b>METALS OTHER THAN IRON AND STEEL.</b>
98	All sorts of METALS OTHER THAN IRON AND STEEL, and manufactures thereof, not otherwise specified.
	<b>PAPER, PASTEBOARD AND STATIONERY.</b>
99	PAPER AND ARTICLES MADE OF PAPER AND PAPER MACHE, PASTEBOARD, MILLBOARD, AND CARDBOARD, all sorts, and STATIONERY, including ruled or printed forms and account and manuscript books, drawing and copy books, labels, advertising circulars, sheet or card almanacs and calendars, Christmas, Easter, and other cards, including cards in booklet form, including also wastepaper and old newspapers for packing, but excluding trade catalogues and advertising circulars imported by packet, book, or parcel post ( <i>see</i> No. 21.)
	<b>YARNS AND TEXTILE FABRICS.</b>
100	<p>YARNS AND TEXTILE FABRICS, that is to say :—</p> <p>Cotton thread other than sewing or darning thread, and all other manufactured cotton goods not otherwise specified.</p> <p>Flax, twist and yarn, and manufactures of flax.</p> <p>Haberdashery and millinery, excluding articles made of silk (<i>see</i> No. 134)</p> <p>Hemp manufactures.</p> <p>Hosiery, excluding articles made of silk (<i>see</i> No. 134.)</p> <p>Jute, twist and yarn, and jute manufactures, excluding second hand or used gunny bags (<i>see</i> No. 22)</p>

SCHEDULE II—IMPORT TARIFF—*contd.*PART V—*concl'd.*

Articles which are liable to duty at 15 per cent. *ad .  
valorem.*

No.	Names of Articles.
	Silk yarn, noils and warps and silk thread.
	Woolen yarn, knitting wool, and other manufactures of wool, including felt.
	All other sorts of yarns and textile fabrics, not otherwise specified.
	MISCELLANEOUS.
101	ART, works of, excluding those specified in No. 23.
102	BRUSHES AND BROOMS.
103	BUILDING AND ENGINEERING MATERIALS, including asphalt, bricks, cement, chalk and lime, clay, pipes of earthenware, tiles, and all other sorts of building and engineering materials not otherwise specified.
104	CANDLES.
105	CINEMATOGRAPH FILMS.
106	CORDAGE AND ROPE AND TWINE OF VEGETABLE FIBER.
107	FURNITURE TACKLE AND APPAREL, not otherwise described, for steam, sailing, rowing and other vessels.
108	MATS AND MATTING.
109	OILCAKES.
110	OILCLOTH AND FLOOR CLOTH.
111	PACKING—ENGINE AND BOILER—all sorts, excluding packing forming a component part of any article included in Nos. 51 and 63.
112	PERFUMERY, not otherwise specified.
113	PITCH, TAR AND DAMMER.
114	POLISHES AND COMPOSITIONS.
115	RUBBER tyres and other manufactures of rubber, not otherwise specified (see No. 139).
116	SOAP

SCHEDULE II—IMPORT TARIFF—*contd.*PART V—*contd.*Articles which are liable to duty at 30 per cent. *ad valorem*.

No.	Names of Articles.
117	STARCH AND FARINA.
118	STONE AND MARBLE, and articles made of stone and marble.
119	TOILET REQUISITES, not otherwise specified.
120	All other articles wholly or mainly manufactured, not otherwise specified.
	<b>IV—Miscellaneous and unclassified—</b>
121	CORAL.
122	UMBRELLAS, INCLUDING PARASOLS AND SUNSHADES, AND FITTINGS THEREFOR.
123	All other articles not otherwise specified, including articles imported by post.

## PART VI

Articles which are liable to duty at 30 per cent. *ad valorem*.

No.	Names of Articles,
	<b>I.—Food, Drink and Tobacco—</b>
124	CONFECTIONERY.
	<b>II.—Articles wholly or mainly manufactured.</b>
	<b>ARMS, AMMUNITION AND MILITARY STORES.</b>
125	GUNPOWDER FOR CANNONS, rifles, guns, pistols and sporting purposes.
126	Subject to the exemptions specified in No. 12 all articles other than those specified in entry No. 42 which are arms or parts of arms within the meaning of the Indian Arms Act, 1878 (excluding springs used for air-guns which are dutiable as hardware under No. 90), all tools used for cleaning or putting together the same, all machines for making, loading, closing or capping cartridges for arms other than rifled arms and all other sorts of ammunition and military stores, and any articles which the Governor-General in Council may, by notification in the Gazette of India, declare to be ammunition or military stores for the purposes of this Act.

No.	Names and Articles.
	<b>CARRIAGES AND CARTS.</b>
127	MOTOR CARS, motor cycles, motor scooters, bicycles and tricycles and articles adapted for use as parts and accessories thereof: provided that such articles as are ordinarily also used for purposes other than as parts and accessories of motor vehicles included in this item or in No. 87 or of bicycles or tricycles shall be dutiable at the rate of duty specified for such articles.
	<b>CUTLERY, HARDWARE, IMPLEMENTS AND INSTRUMENTS.</b>
128	CLOCKS AND WATCHES AND PARTS THEREOF.
129	ARTICLES PLATED WITH GOLD AND SILVER.
130	MUSICAL INSTRUMENTS.
	<b>GLASSWARE AND EARTHENWARE.</b>
131	GLASS BANGLES AND BEADS and false pearls.
	<b>METALS.</b>
132	GOLD PLATE, gold thread and wire, and gold manufacturers, all sorts.
133	SILVER PLATE, silver thread and wire, and silver manufactures, all sorts.
	<b>YARNS AND TEXTILE FABRICS.</b>
134	SILK PIECE-GOODS, and other manufactures of silk.
	<b>MISCELLANEOUS.</b>
135	FIRE-WORKS.
136	IVORY, manufactured.
137	JEWELLERY AND JEWELS.
138	PRINTS, engravings and pictures, including photographs and picture postcards.
139	PNEUMATIC RUBBER TYRES AND TUBES for motor cars, motor lorries, motor cycles, motor scooters, bicycles and tricycles.
140	SMOKERS' REQUISITES, excluding tobacco (Nos. 36 to 38) and matches (No. 46)
141	TOYS, games, playing cards and requisites for games and sports, including bird-shot.



**SCHEDULE II.**

Schedule to be inserted in the Indian Post Office Act, 1898.

(See section 4.)

**THE FIRST SCHEDULE.****INLAND POSTAGE RATES.**

(See section 7.)

*Letters.*

For a weight not exceeding two and a half tolas ... One anna.

For every two and a half tolas, or fractions thereof, One anna.  
exceeding two and a half tolas.

*Postcards.*

Single ... Half an anna.

Reply ... One anna.

*Book, Pattern and Sample Packets.*

For every five tolas or fraction thereof ... Half an anna.

*Registered Newspapers.*

For a weight not exceeding eight tolas ... (Quarter of an anna.

For a weight exceeding eight tolas and not exceeding Half an anna.  
twenty tolas.

For every twenty tolas, or fraction thereof, exceeding Half an anna,  
twenty tolas.

*Parcels.*

For a weight not exceeding twenty tolas ... Two annas.

For a weight exceeding twenty tolas and not exceeding Four annas.  
forty tolas.

For every forty tolas, or fraction thereof, exceeding Four annas.  
forty tolas.

**SCHEDULE III.**

(See section 7.)

**PART I.***Rates of Income-tax.*

A. In the case of every individual, every unregistered firm and every undivided Hindu family—

(1) When the total income is less than Rs. 2,000 ... Nil.

(2) When the total income is Rs. 2,000 or upwards, Five pies in the  
but is less than Rs. 5,000. rupee.

SCHEDULE III—*concl'd.*PART I—*cont'd.*

- (3) When the total income is Rs. 5,000 or upwards, Six pies in the but is less than Rs. 10,000. rupee.
- (4) When the total income is Rs. 10,000 or upwards, Nine pies in the but is less than Rs. 20,000. rupees.
- (5) When the total income is Rs. 20,000 or upwards, One anna in the but is less than Rs. 30,000. rupee.
- (6) When the total income is Rs. 30,000 or upwards, One anna and three but is less than Rs. 40,000. pies in the rupee.
- (7) When the total income is Rs. 40,000 or upwards. One anna and six pies in the rupee.

B. In the case of every company, and every registered One anna and six firm, whatever its total income. pies in the rupee.

## PART II.

*Rates of Super-tax.*

In respect of the excess over fifty thousand rupees of total income :—

- |  | Rate                                 |
|--|--------------------------------------|
| (1) in the case of every company ...   | ... One anna in the rupee.           |
| (2) (a) in the case of every Hindu undivided family—   |                                      |
| (i) in respect of the first twenty-five thousand rupees of the excess.   | <i>Nil.</i>                          |
| (ii) for every rupee of the next twenty-five thousand rupees of such excess  | One anna in the rupee.               |
| (b) in the case of every individual and every un-registered firm, for every rupee of the first fifty thousand rupees of such excess. | One anna in the rupee.               |
| (c) in the case of every individual, every unregistered firm and every Hindu undivided family—                                       |                                      |
| (i) for every rupee of the second fifty thousand rupees of such excess.  | One and a half annas in the rupee.   |
| (ii) for every rupee of the next fifty thousand rupees of such excess.   | Two annas in the rupee.              |
| (iii) for every rupee of the next fifty thousand rupees of such excess,  | Two and a half annas in the rupee.   |
| (iv) for every rupee of the next fifty thousand rupees of such excess.   | Three annas in the rupee.            |
| (v) for every rupee of the next fifty thousand rupees of such excess.  | Three and a half annas in the rupee. |
| (vi) for every rupee in the next fifty thousand rupees of such excess.   | Four annas in the rupees.            |
| (vii) for every rupee of the next fifty thousand rupees of such excess.  | Four and a half annas in the rupee.  |
| (viii) for every rupee of the next fifty thousand rupees of such excess.   | Five annas in the rupee.             |
| (ix) for every rupee of the next fifty thousand rupees of such excess.   | Five and a half annas in the rupee.  |
| (x) for every rupee of the remainder of the excess.  | Six annas in the rupee.              |

**ACT NO XIII OF 1922.**

[PASSED BY THE INDIAN LEGISLATURE.]

*[Received the assent of the Governor General on the 29th March, 1922]***An Act to provide for the incorporation of Trustees for the European Hospital for mental diseases at Ranchi, and to make provision for other matters in relation thereto.**

WHEREAS it is expedient to provide for the incorporation of Trustees for the European Hospital for mental diseases at Ranchi, and to make provision for other matters in relation thereto ; it is hereby enacted as follows :—

Short title and commencement.

**1.** (1) This Act may be called the Ranchi Mental Hospital Act, 1922.

(2) It shall come into force on such date as the Governor General in Council may by notification in the Gazette of India, appoint.

Definitions.

**3.** In this Act, unless there is anything repugnant in the subject or context,—

(a) “the Board” means the Board of Trustees for the European Hospital for mental diseases and Ranchi constituted under this Act ;

(b) “the Chairman” means the Chairman of the Board ;

(c) “the Hospital” means the European Hospital for mental diseases established at Ranchi in the province of Bihar and Orissa ;

(d) “land” means land as defined in section 3 of the Land Acquisition Act, 1894 ;\*

(e) “the Local Government” means the Local Government of Bihar and Orissa ;

(f) “the Superintendent” means the Superintendent of the Hospital appointed by the Local Government ; and

(g) “Trustee” means a member of the Board.

**3.** Subject to the provisions of this Act, the entire management and control of the Hospital shall, on Incorporation of Trustees and from the date on which this Act comes into force, be vested in a Board to be called “the Trustees for the European Hospital for mental diseases at Ranchi,” and the Board

shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property both moveable and immoveable and to contract, and shall by the said name sue and be sued.

Constitution of the Board. 4. (1) The Board shall consist of fourteen Trustees, namely :—

- (a) a Chairman appointed by the Local Government ;
- (b) four Trustees appointed by the Local Government of Bengal ;
- (c) two Trustees appointed by each of the Local Governments of the United Provinces of Agra and Oudh, the Punjab and Bihar and Orissa ;
- (d) one Trustee appointed by the Local Government of the Central Provinces ;
- (e) one Trustee elected by the Council of the Company which was at the commencement of this Act registered under the Indian Companies Act, 1913,† by the name of the European Association ; and
- (f) one Trustee elected by the Anglo-Indian and Domiciled European Association (Bengal), Limited.

(2) The Superintendent shall be *ex-officio* Secretary of the Board.

5. (1) On the date on which this Act comes into force, the Governor General in Council shall pay to the Board a sum of three and a half lakhs of rupees by way of loan, which sum shall be repaid by the Board together with any interest or costs due in respect thereof, in accordance with such terms and conditions as the Governor General in Council may fix.

(2) Any amount which is repaid or is repayable in any year under sub section (1) shall be taken into account in the calculation of the amount attributable to the cost of maintenance as defined in section 3 of the Indian Lunacy Act, 1912,\* of the lunatics detained in the Hospital in that year.

6. (1) The Governor General in Council may, on such terms and conditions as he may fix, make further loans to the Board for the carrying out of any works in connection with the Hospital which have been sanctioned in accordance with the provisions of any rules made under this Act, and the Board shall repay the money borrowed together with any interest or costs due in respect thereof, according to the terms and conditions of the loan.

Loans to the Board for specific purposes.

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\* VII of 1913.

(2) Save as provided in section 5 and sub-section (1), the board shall not borrow money upon or otherwise charge its funds.

**7.** On and from the date on which the provisions of this Act come into force, all monies payable under the Indian Lunacy Act, 1912,\* on account of the cost of maintenance of any lunatic in the Hospital shall be paid to the Board.

Other income.

**8.** The Local Government may, at the request of the Board acquire, under the provisions of the Land Acquisition Act 1894,† any land which it is satisfied is required by the Board for the purposes of the Hospital, and, on payment by the Board of the compensation awarded under that Act and of the charges incurred by the Local Government in connection with the proceedings, the land shall vest in the Board.

Acquisition of land.

**9.** Subject to the provisions of this Act and of any rules made hereunder, the Board shall maintain such staff of officers and servants as may in its opinion be necessary for the proper management and up-keep of the Hospital, and shall assign to them such pay and allowances as it thinks fit.

Establishment.

**10.** Where any person in the service of Government is appointed as an officer or servant of the Board, the Board shall—

Contributions of pensions etc.

(a) if his services are wholly lent or transferred, meet in addition to his pay and allowances any charges prescribed or authorised by any rules for the time being in force under the provisions of section 96 B of the Government of India Act regarding contributions towards pensions or gratuities and leave allowances, and

(b) if he is employed partly by Government and partly by the Board, meet such proportion of such pay and allowances and charges as may be determined by the Local Government.

**11.** Every trustee and every officer of the Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code ‡.

Trustees and servants to be public servants.

**12.** The Local Government may call upon the Board to furnish it with any extract from any proceedings of the Board or from any record under the control of the Board, or with any statistics concerning the administration of the Hospital, and the Board shall thereupon furnish the same without unreasonable delay.

Returns.

\* IV of 1912.

† I of 1894.

‡ XLV of 1860.

Control and supersession  
of the Board.

**13. (1)** If the Local Government, after such inquiry as it may deem fit, is satisfied—

- (a) that any of the duties imposed or powers conferred upon the Board by or under this Act has not been performed or exercised, or has been performed or exercised in an imperfect, inefficient or unsuitable manner ; or
- (b) that adequate financial provision has not been made for the performance of any such duty or for the proper maintenance of the Hospital ;

it may, by order in writing, direct the Board, within such period as may be specified in the order, to make arrangements to the satisfaction of the Local Government for the proper performance of any such duty or the proper exercise of any such power, or to make financial provision to the satisfaction of the Local Government for the performance of any such duty or for the maintenance of the Hospital, as the case may be ; and the Board shall thereupon comply with such direction.

(2) On the failure of the Board to comply with any such direction, the Local Government or any person appointed by the Local Government in this behalf may perform such duty or exercise such power or make such provision, as the case may be, and the Local Government may attach the funds of the Board or any portion thereof and may apply the same to meet any charges incurred in the performance of such duty or the exercise of such power, or in the making of such provision, as the case may be.

(3) On the repeated failure of the Board to comply with such directions, or if the Board otherwise exceeds or abuses its powers, the Local Government may, with the previous sanction of the Governor General in Council, by notification in the Gazette of India and in the Bihar and Orissa Gazette, declare the Board to be incompetent or to have exceeded or abused its powers, as the case may be, and direct that the Board shall be superseded for such period as may be specified in the notification.

(4) When the Board is superseded under the provisions of sub-section (3)—

- (a) all Trustees shall, from the date of the publication of the notification under that sub-section, vacate their offices as Trustees
- (b) all powers and duties of the Board shall, during the period of supersession, be exercised and performed by such person or persons as the Local Government may appoint in this behalf ;

(c) all funds and other property vested in the Board shall, during the period of supersession, vest in the Local Government on behalf of his Majesty ; and

(d) before the expiration of the period of supersession, elections shall be held and appointments made for the purpose of reconstituting the Board.

(5) If the Local Government is informed by the Governor General in Council that the Board has made default in the repayment of any sum due on account of a loan under section 5 or section 6, the Local Government shall forthwith exercise such of its powers under sub-sections (1) and (2) as may be necessary for the purpose of enforcing such repayment.

**14.** The Local Government may, with the previous sanction of the Governor General in Council, by notification in the Gazette of India and in the Bihar and Orissa Gazette, declare that, with effect from such date as may be specified in the notification, the Board shall be dissolved, and, on the making of such declaration, all funds and other property vested in the Board shall vest in the Local Government on behalf of His Majesty.

**15.** the Governor General in Council may make rules prescribing—  
Power of the Governor General in Council to make rules.

- (a) the qualifications for being appointed a Trustee ;
- (b) the circumstances in which the authority by which any Trustee may be removed ;
- (c) the filling of any vacancy in the office of a Trustee, whether temporary or otherwise ;
- (d) the term of office of Trustees ; and
- (e) the allowances, if any, payable to the Trustees from the funds of the Board on account of attendance at meetings of the Board.

**16.** (1) The Local Government may, subject to rules made under section 15, make rules for the purpose of carrying into effect all or any of the provisions of this Act.  
Power of the Local Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely ;—

- (a) for fixing the minimum number of meetings of the Board during any year ;
- (b) for requiring the maintenance by the Board or the Managing Committee of the Board of a record of all business transacted and the submission of copies of such record to the Local Government or to any other specified authority ;

- (c) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, to enter into contracts which shall be binding on the Board, and the manner in which such contracts shall be executed ;
- (d) for sanctioning works in connection with the Hospital, and for prescribing the preparation of estimates of such works before work is commenced and the authority by which such estimates shall be sanctioned ;
- (e) for the procedure to be observed in calling for and considering tenders ;
- (f) for requiring the preparation of schedules of the staff of officers and servants of the Board ;
- (g) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively in respect of the appointment, promotion and dismissal of officers and servants of the Board, and in respect of the creation and abolition of appointments of such officers or servants ;
- (h) for regulating the grant of leave to officers and servants of the Board, and the payment of leave allowances to such officers and servants, and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted ;
- (i) for regulating the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Board ;
- (j) for prescribing the establishment and maintenance of a provident fund for the officers and servants of the Board, and for the deduction of subscriptions to such provident fund from the pay and allowances of such officers or servants, other than Government servants whose services have been lent or transferred to the Board ;
- (k) for prescribing the preparation of budget estimates of the annual receipts and expenditure of the Board and of supplementary estimates of expenditure not included in the budget estimates, and the manner in which such estimates shall be sanctioned and published,
- (l) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, in regard to the expenditure of the funds of the Board, whether provision has or has not been made in the budget estimates



or by re-appropriation for such expenditure, and in regard to the re-appropriation of estimated savings in the budget estimates of expenditure ;

- (m) for prescribing the maintenance of accounts of the receipts and expenditure of the Board and providing for the audit of such accounts ;
- (n) for prescribing the manner in which payments are to be made by or on behalf of the Board, and the officers by whom orders for making deposits or for withdrawals or disposal of the funds of the Board shall be signed ; and
- (o) for determining the custody in which the current account of the Board shall be kept, and the banks at which surplus monies at the credit of the Board may be deposited at interest, and the conditions on which such monies may be otherwise invested.

**17.** Subject to any rules made under section 15 and 16, the Board may, with the previous sanction of the Local Government, make rules to provide for all or any of the following matters namely:—

Powers of the Boards to make rules.

- (a) for the constitution of a Managing Committee and the delegation thereto of any powers exercisable under this Act by the Board ;
- (b) for prescribing the method of appointment, removal and replacement and the term of office of members of the Managing Committee, and for the filling of vacancies therein ;
- (c) for the appointment of the dates, times and places for meetings of the Board and the Managing Committee, and for regulating the procedure to be observed at such meetings ;
- (d) for determining the amount and nature of the security, if any, to be demanded from officers or servants of the Board, and the circumstances in which such security may be demanded ;
- (e) for determining the times at which and the circumstances in which, payments may be made out of the provident fund, and the conditions on which such payments shall relieve the fund from further liability ;
- (f) for determining the contribution, if any, payable from the funds of the Board to the provident fund ;
- (g) for regulating generally all matters incidental to the provident fund and the investment thereof ; and

- (h) for defining the powers and duties of the Secretary of the Board.

**18.** All rules made under this Act shall be made subject to the condition of previous publication, and shall be published in the Gazette of India and in the Bihar and Orrissa Gazette, and on such publication shall have effect as if they were enacted in this Act-

**19.** No suit shall be instituted against the Board or any Trustee or any officer or servant of the Board, or any person acting under the direction of the Board or of the Chairman or of any such officer or servant, in respect of any act purporting to be done under this Act or any rule made hereunder until the expiration of one month after written notice has been delivered or left at the office of the Board or at the office or place of abode of such officer or servant, stating the cause of action, the name and place of abode of the complainant and the relief which he claims, and unless the plaint contains a statement that such notice has been so delivered of left,

**20.** No act done or proceedings taken under this Act shall be questioned on the ground merely of—

- (a) the existence of any vacancy in or any defect in the constitution of the Board or the managing committee or
- (b) any person having ceased to be a Trustee ; or
- (c) any omission defect or irregularity not affecting the merits of the case.

**21.** For all purposes of the Indian Lunacy Act, 1912\* the Hospital shall be deemed to be an asylum established by the Government.

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\* IV. of 1912

## ACT NO. XIV OF 1922.

[ PASSED BY THE INDIAN LEGISLATURE. ]

*Received the assent of the Governor General on the 29th March 1922.*

An Act to repeal the Indian Press Act, 1910, and the Newspapers (Incitements to Offences) Act, 1908, and to make certain provisions in regard to the liability of editors of newspapers, and to facilitate the registration of printers and publishers; and to provide for the seizure and disposal of certain documents.

Whereas it is expedient to repeal the Indian Press Act, 1910,\* and the Newspapers (Incitements to Offences) Act, 1908,† and to make further provision in the Press and Registration of Books Act, 1867,‡ for the liability of editors of newspapers in civil and criminal proceedings, and to make certain amendments in that Act in order to facilitate the registration of printers and publishers; and to provide in the Sea Customs Act, 1878,§ the Code of Criminal Procedure, 1898,|| and the Indian Post Office Act, 1898,¶ for the seizure and disposal of certain documents; It is hereby enacted as follows :—

Short title and extent. **1.** (1) This Act may be called the Press Law Repeal and Amendment Act, 1922.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

Repeal of Act VII of 1908 and Act I of 1910. **2** (1) The Newspapers (Incitements of Offences) Act, 1908,\* \* and the Indian Press Act, 1910,\* are hereby repealed.

(2) Nothing in sub-section (1) shall be deemed to invalidate any order made under section 12 of the Indian Press Act, 1910,\* before the commencement of this Act, forfeiting any newspaper, book or other document; and any newspaper, book or other document forfeited in accordance with such order shall be deemed to be forfeited in accordance with the provisions of section 99A of the Code of Criminal Procedure, 1898|| except that no application under section 99B of that Code shall lie in respect of the forfeiture of any such newspaper, book or document, if forfeited more than two months before the commencement of this Act.

Amendment of Act XXV of 1867. **3.** The amendments set forth in the First Schedule shall be made in the Press and Registration of Books Act, 1867. ‡

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\* I of 1910.      † VII of 1908.      ‡ XXV of 1867.      § VIII of 1878.  
                   || V of 1898.      ¶ VI of 1898.      \*\* VII of 1908.

Amendment of Act VIII of 1878.      4. The amendments set forth in the Second Schedule shall be made in the Sea Customs Act, 1878.\*

Amendment of Act V of 1898.      5. The amendments set forth in the Third Schedule shall be made in the Code of Criminal Procedure 1898.†

Amendment of Act VI of 1898.      6. The amendments set forth in the Fourth Schedule shall be made in the Indian Post Office Act, 1898.‡

## THE FIRST SCHEDULE.

(See section 3.)

### THE PRESS AND REGISTRATION OF BOOKS ACT, 1867 (XXV OF 1867).

1. In section 1, after the definition of "British India," the following definition, namely :—

“ ‘editor’ means the person who controls the selection of the matter that is published in a newspaper,”  
Editor.      and after the definition of “Magistrate” the following definition, namely :—

“ ‘newspaper’ means any printed periodical work containing public news or comments on public news,”  
Newspaper.      shall be inserted.

2. In section 5—

(a) For the words “printed periodical work containing news or comments on public news,” the word “newspaper” shall be substituted ;

(b) After the words “hereinafter laid down” the following clause shall be inserted, namely :—

“(1) Every copy of every such newspaper shall contain the name of the person who is the editor thereof printed clearly on such copy as the name of the editor of that newspaper;”

(c) Clauses (1), (2) and (3) shall be re-numbered (2), (3) and (4);

(d) In clauses (2) as re-numbered, for the words “before the Magistrate within whose local jurisdiction such work shall be published” the words “in person or by agent authorised in this behalf in accordance with rules made under section 20, before a District, Presidency or Sub-divisional Magistrate within whose

\* VIII of 1878.

† V of 1898.

‡ VI of 1898.

THE FIRST SCHEDULE—*contd.*

local jurisdiction such newspaper shall be printed or published, or such pinter or publisher resides ", shall be substituted, and for the words "periodical work" the word "newspaper" shall be substituted ;

(e) After clause (4) as renumbered, the following proviso shall be inserted, namely :—

" Provided that no person who has not attained majority in accordance with the provisions of the Indian Majority Act, 1875, \* or of the law to which he is subject in respect of the attainment of majority, shall be permitted to make the declaration prescribed by this section, nor shall any such person edit a newspaper."

3. In section 7—

(a) After the words " custody of such declarations, the words " or, in the case of the editor, a copy of the newspaper containing his name printed on it as that of the editor";

(b) After the words " to such declaration," the words " or printed on such newspaper, as the case may be";

(c) After the words " in the declaration," the words " or the editor of every portion of that issue of the newspaper of which a copy is produced ;" shall be inserted.

4. In section 7, 8 and 9, for the words " periodical work " wherever they occur, the word " newspaper " shall be substituted.

5. After section 8, the following section shall be inserted, namely :—

" 8A. If any person, whose name has appeared as editor of a copy of a newspaper, claims that he was not the editor of the issue on which his name has so appeared, he may, within two weeks of his becoming aware that his name has been so published, appear before a District, Presidency or Sub-divisional Magistrate and make a declaration that his name was incorrectly published in that issue as that of the editor thereof, and if the Magistrate after making such inquiry or causing such inquiry to be made as he may consider necessary is satisfied that such declaration is true, he shall certify accordingly, and on that certificate being given the provisions of section 7 shall not apply to that person in respect of that issue of the newspaper.

The Magistrate may extend the period allowed by this section in any case where he is satisfied that such person was prevented by sufficient cause from appearing and making the declaration within that period."

FIRST SCHEDULE—*contd.*

6. After section 11, the following section shall be inserted, namely :—

“ 11A. The printer of every newspaper in British India shall deliver at such place and to such officer as the Local Government may, by notification in the local official Gazette, direct, and free of expense to the Government, two copies of each issue of such newspaper as soon as it is published.”

7. In sections 12, 13, 14 and 15, for the words “two years,” wherever they occur, the words “six months,” and for the words “five thousand” wherever they occur, the words “two thousand” shall be substituted.

8. In section 15—

(a) After the words “whoever shall” in the two places where they occur, the word “edit” shall be inserted ;

(b) For the words “such periodical work as is hereinbefore described,” the word “newspaper” shall be substituted ;

(c) After the words “shall cause to be,” the word “edited” shall be inserted ;

(d) For the words “such periodical work,” where they occur for the second time, the word “newspaper” shall be substituted ; and

(e) For the words “that work,” the words “that newspaper” shall be substituted.

9. After section 16, the following section shall be inserted namely :—

“ 16A. If any printer of any newspaper published in British India neglects to deliver copies of the same in compliance with section 11A, he shall, on the complaint of the officer to whom copies should have been delivered or of any person authorised by that officer in this behalf, be punishable, on conviction by a Magistrate having jurisdiction in the place where the newspaper was printed, with fine which may extend to fifty rupees for every default.”

---

 THE SECOND SCHEDULE,

(See section 4.)

THE SEA CUSTOMS ACT, 1878 (VIII OF 1878).

After section 181, the following sections shall be inserted, namely :—

THE SECOND SCHEDULE—*contd.*

“181A (1). The Chief Customs-officer or other officer authorised by the Local Government in this behalf may detain any package, brought whether by land or sea into British India which he suspects to contain—

Power to detain packages containing certain publications imported into British India.

(a) any newspaper or book as defined in the Press and Registration of Books Act, 1867,\* or

(b) any document, containing any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Indian Penal Code,† and shall forward such package to such officer as the Local Government may appoint in this behalf.

(2) Any officer detaining a package under the provisions of sub-section (1) shall, where practicable, forthwith send by post to the addressee or consignee of such package notice of the fact of such detention.

(3) The Local Government shall cause the contents of such package to be examined, and if it appears to the Local Government that the package contains any such newspaper, book or other document, containing any such seditious matter, may pass such orders as to the disposal of the package and its contents as it may deem proper, and, if it does not so appear, shall release the package and its contents unless the same be otherwise liable to seizure under any law for the time being in force :

Provided that any person interested in any package detained under the provisions of this section may, within two months from the date of such detention, apply to the Local Government for release of the same, and the Local Government shall consider such application and pass such orders thereon as it may deem to be proper :

Provided, further, that, if such application is rejected, the applicant may, within two months from the date of the order rejecting the application, apply to the High Court for release of the package of its contents on the ground that the package did not contain any such newspaper, book or other document containing any such seditious matter.

(4) In this section “document” includes also any painting, drawing or photograph, or other visible representation.

181B. Every application under the second proviso to sub-section (3) of section 181A shall be heard and determined, in the manner provided, by sections 99D to 99F of the Code of Criminal Procedure, 1898,‡ by a Special Bench

Procedure for disposal by High Court of applications for release of packages so detained.

of the High Court constituted in the manner provided by section 99C of that Code.

\* XXV of 1867.

† XLV of 1860.

‡ V of 1898.

THE SECOND SCHEDULE—*contd.*

181C. No order passed or action taken under section 181A shall be called in question in any Court otherwise than in accordance with the second proviso to sub-section (3) of that section.

## THE THIRD SCHEDULE.

(See section 5.)

## THE CODE OF CRIMINAL PROCEDURE, 1898 (V OF 1898.)

1. After section 99, the following sections shall be inserted, namely:—

Power to declare certain publications forfeited, and to issue search warrants for the same.

“99A. (1) Where—  
(a) any newspaper, or book as defined in the Press and Registration of books Act, 1867\*, or

(b) any document,

wherever printed, appears to the Local Government to contain any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Indian Penal Code,† the Local Government may, by notification in the local official Gazette, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited in His Majesty, and thereupon any police-officer may seize the same, wherever found in British India, and any Magistrate may by warrant authorise any police-officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be,

(2) In sub-section (1) “document” includes also any painting, drawing or photograph, or other visible representation.

99B. Any person having any interest in any newspaper, book or other document, in respect of which an order of forfeiture has been made under section 99A, may, within two months from the date of such order, apply to the High Court to set aside such order on the ground that the issue of the newspaper, or the book or other document, in respect of which the order was made, did not contain any seditious matter.

99C. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges.

\* XXV of 1867.

† XLV of 1860.



THE THIRD SCHEDULE—*contd.*

99D. (1) On receipt of the application, the Special Bench shall, if it is not satisfied that the issue of the newspaper, or the book or other document, in respect of which the application has been made, contained seditious matter of the nature referred to in sub-section (1) of section 99A, set aside the order of forfeiture.

Order of Special Bench setting aside forfeiture.

(2) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority of those Judges.

99E. On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper which are alleged to be seditious matter.

Evidence to prove nature or tendency of newspapers.

99F. Every High Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon. and until such rules are framed, the practice of such Courts in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.

Procedure in High Court.

99G. No order passed or action taken under section 99A shall be called in question in any Court otherwise than in accordance with the provisions, of section 99B."

Jurisdiction barred.

2. In section 101 after the words "section 98" the words "section 99A" shall be inserted.

## THE FOURTH SCHEDULE.

(See section 6.)

THE INDIAN POST OFFICE ACT, 1898 (VI OF 1898).

After section 27, the following sections shall be inserted, namely :—

"27A. No newspaper printed and published in British India without conforming to the rules laid down in the Press and Registration of Books Act, 1867\* shall be transmitted by post.

Prohibition of transmission by post of certain newspapers.

THE FOURTH SCHEDULE—*contd.*

27B. (1) Any officer of the Post Office, authorised by the Postmaster-General in this behalf may  
Power to detain newspapers and other articles being transmitted by post. detain any postal article in course of transmission by post which he suspect to contain—

(a) (i) any newspaper or book as defined in the Press and Registration of Books Act, 1867;\* or

(ii) any document ;

containing any seditious matter, that is to say, any matter the publication of which is punishable under section 124A† of the Indian Penal Code ; or

(b) any newspaper as defined in the Press and Registration of Books Act, 1867,\* edited, printed or published otherwise than in conformity with the rules laid down in that Act ;

and shall deliver any postal article so detained to such officer as the Local Government may appoint in this behalf.

(2) Any officer detaining any postal article under the provisions of sub-sections (1) shall forthwith send by post to the addressee of such article notice of the fact of such detention.

(3) The Local Government shall cause the contents of any postal article detained under sub-section (1) to be examined, and, if it appears to the Local Government that the article contained any newspaper, book or other document, of the nature described, in clause (a) or clause (b) of sub-section (1), may pass such orders as to the disposal of the article and its contents as it may deem proper, and, if it does not so appear, shall release the article and its contents, unless the same be otherwise liable to seizure under any law for the time being in force :

Provided that any person interested in any article detained under the provisions of clause (a) of sub-section (1) may, within two months from the date of such detention, apply to the Local Government for release of the same, and the Local Government shall consider such application and pass such orders thereon as it may deem to be proper :

Provided also that, if such application is rejected, the applicant may, within two months from the date of the order rejecting the application, apply to the High Court for release of the article and its contents on the ground that the article did not contain any newspaper, book or other document containing any seditious matter.

THE FOURTH SCHEDULE—*contd.*

(4) In this section "document" includes also any painting, drawing or photograph, or other visible representation.

27C. Every application made under the second proviso to sub-section (3) of section 27B shall be heard and determined in the manner provided by sections 99D to 99F of the Code of Criminal Procedure, 1898,\* by a Special Bench of the High Court constituted in the manner provided by section 99C of that Code.

27D. No order passed or action taken under section 27B shall be called in question in any Court otherwise than in accordance with the second proviso to sub-section (3) of that section."

## ACT No. XV OF 1922.

[PASSED BY THE INDIAN LEGISLATURE.]

*Received the assent of the Governor General on the 29th March, 1922.)*

An Act to regulate the employment of child labour in ports in British India.

WHEREAS it is expedient to regulate the employment of child labour in ports in British India; It is hereby enacted as follows :—

Short title.                      1. This Act may be called the Indian Ports (Amendment) Act, 1922.

Amendment of section 6, Act XV of 1908.              2. In section 6 of the Indian Ports Act, 1908,†—  
(a) after sub-section (1), the following sub-section shall be inserted, namely :—

"(1A) In addition to any rules which it is empowered to make under sub-section (1), the Local Government shall make rules prohibiting the employment at piers, jetties, landing-places, wharves, quays, docks, warehouses and sheds of children under the age of twelve years upon the handling of goods"; and

(b) in sub-section (2) after the word and figure "sub-section (1)" the words and figure "and sub-section (1A) shall be inserted.

**ACT NO. XVI OF 1922.**

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 30th September, 1922.)***An Act further to amend the Indian Extradition Act, 1903.**

WHEREAS it is expedient further to amend the Indian Extradition Act, 1903 ;\* It is hereby enacted as follows :—

1. This Act may be called the Indian Extradition Short title. (Amendment) Act, 1922.

2. In the First Schedule to the Indian Extradition Act, 1903,\* for the words "Desertion from any body of Imperial Service Troops," the following shall be substituted, namely :—

"Desertion from any unit of Indian State Forces declared by the Governor General in Council, by notification in the Gazette of India, to be a unit desertion from which is an extradition offence."

**ACT NO. XVII OF 1922.**

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 30th September, 1922.)***An Act further to amend the Indian Museum Act, 1910.**

WHEREAS it is expedient further to amend the Indian Museum Act, 1910 ;\* It is hereby enacted as follows :—

1. This Act may be called the Indian Short title. Museum (Amendment) Act, 1922.

2. In clause (a) of sub-section (I) of section 2 of the Indian Museum Act, 1910,†—

(a) for the word "six" the word "seven" shall be substituted ;

(b) for sub-clause (iv) the following sub-clause shall be substituted, namely :—

"(iv) the Director, Zoological Survey of India ;" and

\* XV of 1903.

† X of 1910.

(c) the word " and " at the end of sub-clause (v) shall be omitted ; sub-clause (vi) shall be re-numbered sub-clause (vii); and after sub-clause (v) the following sub-clause shall be inserted namely :—

" (vi) the Superintendent, Archæological Section of the Museum ; and "

## ACT NO XVIII OF 1922.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 3rd October, 1922.)*

### **An Act further to amend the Negotiable Instruments Act, 1881.**

WHEREAS it is expedient further to amend the Negotiable Instruments Act, 1881 ; \* It is hereby enacted as follows :—

1. This Act may be called the Negotiable Instruments  
Short title. (Amendment) Act, 1922.

2 To section 131 of the Negotiable Instruments Act,  
Amendment of section 1881,\* the following *Explanation* shall be  
131, Act XXVI of 1881. added, namely :—

" *Explanation.*—A banker receives payment of a crossed cheque for a customer within the meaning of this section notwithstanding that he credits his customer's account with the amount of the cheque before receiving payment thereof."

## ACT NO. XIX OF 1922.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 3rd October, 1922.)*

### **An Act further to Amend the Court-fees Act, 1870.**

WAEREAS it is expedient further to amend the Court-fees Act, 1870 ;† It is hereby enacted as follows :—

1. This Act may be called the Court-fees (Amendment)  
Short title. Act, 1922.

2. In section 4 of the Court-fees Act, 1870,† for the words  
Amendment of section 4, " judgment of two " the words and brackets  
Act VII of 1870. " judgments (other than judgments passed in  
the exercise of the ordinary original civil jurisdiction of the Court)  
of one " shall be substituted.

\* XXVI of 1881.

† VII of 1870.

**ACT NO. XX OF 1922.**

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 3rd October, 1922.)***An Act further to amend the Parsi Marriage and Divorce Act, 1865.**

WHEREAS it is expedient further to amend the Parsi Marriage and Divorce Act, 1865 ;\* It is hereby enacted as follows :—

Short title, 1. This Act may be called the Parsi Marriage and Divorce (Amendment) Act, 1922.

Insertion of new section 39 in Act XV of 1865. 2. After section 38 of the Parsi Marriage and Divorce Act, 1865 (hereinafter referred to as the said Act), the following section shall be inserted, namely :—

“39. Notwithstanding anything contained in section 16 or section 17, where in the case of a trial in a Parsi Chief Matrimonial Court, not less than nine or, in the case of a trial in a Parsi District Matrimonial Court, not less than six delegates have attended throughout the proceedings, the trial shall not be invalid by reason of the absence during any part thereof of the other delegates.”

Where at any stage of a trial in a Parsi Chief Matrimonial Court less than nine, or in a Parsi District Matrimonial Court less than six, delegates are present who have attended throughout the proceedings and the presiding Judge is of opinion that it is not possible without undue delay to secure the attendance throughout the proceedings of nine or six delegates. as the case may be, the proceedings shall be stayed and a new trial shall be held with the aid of fresh delegates.”

Amendment of section 41, Act XV of 1865. 3. (1) In section 41 of the said Act for the words “before whom the case is tried” the words “who have attended throughout the trial” shall be substituted,

(2) To the same section the following proviso shall be added, namely :—

“Provided that, where such delegates are equally divided in opinion, the decision on the facts shall be the decision of the presiding Judge”.

# ACT NO XXI OF 1922.

PASSED BY THE INDIAN LEGISLATURE.

*(Received the assent of the Governor General on the 3rd October, 1922)*

## **An Act further to amend the Official Trustees Act 1913, and the Administrator General's Act 1913.**

Whereas it is expedient further to amend the Official Trustees Act, 1913,\* and the Administrator General's Act, 1913;† It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Official Trustees and Administrator General's Acts 1922.

### PART I.

**2.** To section 2 of the Official Trustees Act, 1913\* (hereinafter in this Part referred to as the said Act), after clause (6) the following clause shall be added, namely :—

“**(7)** ‘revenues of the Government’ means, in respect of any part of India in which the powers and duties of the Government under this Act are exercised and discharged by a Local Government, the revenues allocated to that Government under the Government of India Act.”

**3.** In section 15 of the said Act,—

Amendment of section 15, Act II of 1913. **(a)** the words “of India”, where they first occur, shall be omitted ; and

**(b)** after the word “revenues”, where it occurs for the second time in sub-section (1), and after the same word in sub-section (2), the words “of the Government or” shall be inserted.

Amendment of sections 17, 18, 23 and 24, Act II of 1913,

**4.** In sections 17, 18, 23 and 24 of the said Act the words “of India,” wherever they occur, shall be omitted.

### PART II.

Amendment of section 2, Act III of 1913.

**5.** To section 2 of the Administrator General's Act, 1913† (hereinafter in this Part referred to as the said Act), after clause (10) the following clause shall be added, namely :—

“(11) ‘revenues of the Government’ means, in respect of any part of India in which the powers and duties of the Government under this Act are exercised and discharged by a Local Government, the revenues allocated to that Government under the Government of India Act.”

6. In section 39 of the said Act,—

Amendment of section 39, Act III of 1913. (a) in sub-section (1), the words “ of India ” where they first occur, shall be omitted and after the word “ revenues,” where it occurs for the second time, the words “ of the Government or ” shall be inserted ; and

(b) in sub-section (2), after the words “ to render” the words “the Government or” shall be inserted.

Amendment of sections 42, 43, 52 and 53, Act III of 1913. 7. In sections 42, 43, 52 and 53 of the said Act the words “of India,” wherever they occur, shall be omitted.

## ACT NO. XXII OF 1922.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 5th October, 1922)*

### **An Act to provide a penalty for spreading disaffection among the police and for kindred offences.**

WHEREAS it is expedient to penalize the spreading of disaffection among the police and other kindred offences ; It is hereby enacted as follows :—

Short title, extent and commencement. 1. (1) This Act may be called the Police (Incitement to Disaffection) Act, 1922.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force in any province or part of a province on such date as the Local Government may, by notification in the local official Gazette, direct.

2. In this Act, the expression “ member of a Police-force” means any person appointed or enrolled for the performance of police duties under any enactment specified in the Schedule.

3. Whoever intentionally causes or attempts to cause, or does any Act which he knows is likely to cause, disaffection towards His Majesty or the Government established by law in British India amongst the members of a police-force, or induces or attempts to induce, or does any act which he knows is likely to induce, any member



of a police-force to withhold his services or to commit a breach of discipline shall be punished with imprisonment which may extend to six months, or with fine which may extend to two hundred rupees, or with both,

*Explanation.*—Expressions of disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, or of disapprobation of the administrative or other action of the Government, do not constitute an offence under this section unless they cause or are made for the purpose of causing or are likely to cause disaffection.

Saving of acts done by police associations and other persons for certain purposes,

4. Nothing shall be deemed to be an offence under this Act which is done in good faith—

(a) for the purpose of promoting the welfare or interests of any member of a police-force by inducing him to withhold his services in any manner authorised by law or

(b) by or on behalf of any association formed for the purpose of furthering the interests of members of a police force as such, where the association has been authorised or recognised by the Government and the act done is done under any rules or articles of the association which have been approved by the Government,

5. No Court shall proceed to the trial of any offence under this Act except with the previous sanction, or on the complaint, of the District Magistrate or, in the case of a Presidency-town or the town of Rangoon, of the Commissioner of Police.

Sanction to trial of offences by subordinate Courts.

6. (1) No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act.

Trial of cases.

(2) Notwithstanding anything contained in Chapter XXII of the Code of Criminal Procedure, 1898,\* no offence under this Act shall be triable summarily.

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\* V of 1898,

THE SCHEDULE.

(See section 2)

Year.	No.	Short title.
<i>Acts of the Governor General in Council.</i>		
1859	XXIV	The Madras District Police Act, 1859.
1861	V	The Police Act, 1861.
1887	XV	The Burma Military Police Act, 1887.
1888	III	The Police Act, 1888.
1892	V	The Bengal Military Police Act, 1892.
<i>Madras Act.</i>		
1888	III	The Madras City Police Act, 1888.
<i>Bombay Acts.</i>		
1890	IV	The Bombay District Police Act, 1890.
1902	IV	The City of Bombay Police Act, 1902.
<i>Bengal Acts.</i>		
1866	II	The Calcutta Suburban Police Act, 1866.
"	IV	The Calcutta Police Act, 1866.
1890	III	The Calcutta Port Act, 1890.
1920	II	The Eastern Frontier Rifles (Bengal Battalion) Act, 1920.
<i>Burma Act.</i>		
1899	IV	The Rangoon Police Act, 1899.
<i>Assam Act.</i>		
1920	I	The Assam Rifles Act, 1920.
<i>Regulation by the Governor General in Council</i>		
1888	II	The Andaman and Nicobar Islands Military Police Regulation, 1888.

ACT NO. XXIII OF 1922.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 5th October.  
1922).

**An Act to remove the restrictions imposed on the transfer of ships registered in British India.**

Whereas it is expedient to remove the restrictions imposed on the transfer of ships registered in British India ; It is hereby enacted as follows ;—

Short title.

Act, 1922.

Repeal of Act XX of 1917.

1. This Act may be called the Indian Transfer of Ships Restriction (Repealing)

2 The Indian Transfer of Ships Restriction Act, 1917, is hereby repealed.

# INDEX.

—:0:—

	Pages.
Benares Hindu University (Amendment) Act ...	19
Civil Procedure (Amendment) Act ...	60
Court Fees (Amendment) Act ...	138
Criminal Law (Amendment) Act ...	23
Delhi University Act ...	35
Electricity (Amendment) Act ...	1
Emigration (Amendment) Act ...	24
Extradition (Amendment) Act ...	137
Factories (Amendment) Act ...	9
Finance Act ...	96
Income-Tax Act, 1922 ...	6
Lunacy (Amendment) Act ...	22
Limitation (Amendment) Act ...	62
Museum (Amendment) Act ...	137
Negotiable Instruments (Amendment) Act ...	137
Official Trustees and Administrator Generals' Act ...	140
Parsi Marriage and Divorce (Amendment) Act ...	139
Press Law Repeal and Amendment Act ...	128
Police (Incitement to Disaffection) Act ...	141
Ports (Amendment) Act, 1922 ...	236
Ranchi Mental Hospital Act ...	120
Special Laws Repeal Act ...	19
Transfer of Ships Restriction (Repealing) Act ...	143

# ACTS OF INDIAN LEGISLATURE

FOR

1923.

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1923.

## TABLE OF CONTENTS.

NO. OF ACT.	NAMES OF ACT.	PAGES.
I.—The Criminal Tribes Act	... ..	1
II.—The Malabar (Completion of Trials) Supplementary Act	...	4
III.—The Cotton Transport Act	... ..	4
IV.—The Indian Mines Act	... ..	7
V.—The Indian Boilers Act	... ..	25
VI.—The Cantonments (House-Accommodation) Act	...	37
VII.—The Indian Naval Armament Act	... ..	49
VIII.—The Workman's compensation Act	... ..	56
IX.—The Indian Factories (Amendment) Act	... ..	76
X.—The Indian Paper Currency Act	... ..	77
XI.—The Repealing and Amending Act	... ..	86
XII.—The Criminal Law Amendment Act	... ..	95
XIII.—The Married Women's Property (Amendment) Act	...	106
XIV.—The Indian Cotton Cess Act	... ..	107
XV.—The Indian Income Tax (Amendment) Act	... ..	114
XVI.—The Government Savings Bank (Amendment) Act	... ..	114
XVII.—The Prisoner (Amendment) Act	... ..	115
XVIII.—The Criminal Procedure (Amendment) Act	... ..	116
XIX.—The Indian Official Secrets Act, 1923	... ..	175
XX.—The Indian Penal Code (Amendment) Act, 1923	... ..	184
XXI.—The Indian Merchant Shipping Act	... ..	186
XXII.—The Malkharoda and Gaontia Villages Laws Act	...	297
XXIII.—The Legal Practitioners (Women) Act	... ..	299
XXIV.—The Mahendra Partab Singh Estates Act	... ..	300
XXV.—The Moorshedabad (Amendment) Act	... ..	301
XXVI.—The Code of Civil Procedure (Amendment) Act	... ..	301
XXVII.—The Indian Income-tax (Further Amendment) Act	... ..	302
XXVIII.—The Indigo Cess (Repealing Act) 1923	... ..	303
XXIX.—The Code of Civil Procedure (Amendment) Act	... ..	304
XXX.—The Special Marriage (Amendment) Act	... ..	304
XXXI.—The Indian Territorial and Auxiliary Forces (Amendment) Act, 1923	... ..	306
XXXII.—The Indian Lunacy Act	... ..	307
XXXIII.—The Indian Army (Amendment) Act	... ..	308
XXXIV.—The Cutchi Memons (Amendment) Act, 1923	... ..	309
XXXV.—The Code of Criminal Procedure (Further Amendment) Act	... ..	310
XXXVI.—The Indian Paper Currency (Amendment) Act	... ..	311
XXXVII.—The Code of Criminal Procedure (Second Amendment) Act, 1923	... ..	312
XXXVIII.—The Indian Land Acquisition (Amendment) Act	... ..	314
XXXIX.—The Indian Ports (Amendment) Act	... ..	316
XL.—The Indian Electricity Act	... ..	317
XLI.—The Charitable and Religious Trusts Act	... ..	317
XLII.—The Mussalman Wakf Act	... ..	318
XLIII.—The Indian Stamp (Amendment) Act	... ..	323



## ACT NO. I. OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 1st February 1923.*

### An Act further to amend the Criminal Tribes Act, 1911.

WHEREAS it is expedient further to amend the Criminal Tribes Act, 1911\* ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Criminal Tribes (Amendment) Act, 1923.

Amendment of section 2, Act III of 1911. 2. In section 2 of the Criminal Tribes Act, 1911\* (hereinafter referred to as the said Act)—

(a) after clause (1) the following clauses shall be inserted namely :—

“(1a) ‘district’ includes a Presidency-town and the town of Rangoon ;

(1b) ‘District Magistrate’ means, in the case of a Presidency-town or the town of Rangoon, the Commissioner of Police” ;

(b) after clause (2) the following clause shall be inserted, namely :—

“(2a) ‘Superintendent of Police’ means, in the case of a Presidency-town or the town of Rangoon, any officer appointed by the Local Government to perform the duties of a Superintendent of Police under this Act.”

Amendment of section 4, Act III of 1911. 3. In section 4 of the said Act the words “or of any part thereof” shall be omitted.

4. In section 5 of the said Act,—

Amendment of section 5, Act III of 1911.

(a) for the words “a notice” the word “notice” shall be substituted ;

(b) the words “or of such part thereof as is directed to be registered” shall be omitted ; and

(c) in the proviso, the words “or part thereof” shall be omitted, and after the word “registration” the words “and may cancel any such exemption” shall be added.

Amendment of section 13, Act III of 1911.  
namely :—

5. In section 13 of the said Act, after the word “settled” the following shall be added,



"and any officer empowered in this behalf by the Local Government may, by order in writing, vary any notification made under section 11 or under this section by directing the restriction of such criminal tribe to another area, or, as the case may be, its settlement in another place, in the same district."

Insertion of new section 13A in Act III of 1911.

6. After section 13 of the said Act the following section shall be inserted, namely:—

"13A Any notification made by the Local Government under section 11 or section 13 may specify, as the area to which the criminal tribe shall be restricted or as the place in which it shall be settled, an area or place situated in any other province, provided that the consent of the Local Government of that province shall first have been obtained."

Substitution of new section for section 15, Act III of 1911.

7. For section 15 of the said Act, the following section shall be substituted namely:—

"15. (1) Where a criminal tribe is restricted in its movements to an area, or is settled in a place of residence, situated in a province other than that by the Local Government of which the notification under section 3 relating to such criminal tribe was issued, all the provisions of this Act and the rules made hereunder shall apply to the criminal tribe as if the notification had been issued by the Local Government of such other province.

(2) If a criminal tribe, having been registered under section 4 in any district, is restricted in its movements to an area, or is settled in a place of residence, situated in another district (whether in the same province or not), the register or any relevant entries or entry therein shall be transferred to the Superintendent of Police of the last-mentioned district, and all the provisions of this Act and the rules made hereunder shall apply as if such criminal tribe had been registered in that district, and the District Magistrate of that district shall have power to cancel any exemption granted under section 5."

8. In section 16 of the said Act, the words "Governor General in Council or the" and the words "or any part thereof" shall be omitted; and to the same section the following proviso shall be added, namely:—

"Provided that no criminal tribe shall be placed in a settlement unless the necessity for so placing it has been established to the satisfaction of the Local Government, after an inquiry held by such authority and in such manner as may be prescribed."

9. In section 18 of the said Act,—

Amendment of section 18, Act III of 1911.

(a) after the words "Local Government" the words "or any officer authorised by it in this behalf" shall be inserted; and

(b) in clause (b) the word "like" shall be omitted.

**10. In sub-section (2) of section 20 of the said Act,—**

Amendment of section 20,  
Act III of 1911.

(a) after clause (e) the following clause shall be inserted, namely :—

"(ee) the circumstances in which members of a criminal tribe shall be required to possess and produce for inspection certificates of identity, and the manner in which such certificates shall be granted ;" and

(b) after clause (h) the following clause shall be inserted, namely: —

"(hh) the authority by whom and the manner in which the inquiry referred to in section 16 shall be held."

**11. In section 22 of the said Act,—**

Amendment of section 22,  
Act III of 1911.

(a) to sub-section (1) the words "or with fine which may extend to five hundred rupees, or with both" shall be added ;

(b) in sub-section (2) for the words "a rule made under any other clause of" the words "any other rule made under" shall be substituted ; and

(c) after sub-section (2) the following sub-section shall be added, namely :—

(3) Any person who commits or is reasonably suspected of having committed an offence made punishable by this section which is not a cognizable offence within the meaning of the Code of Criminal Procedure, 1898,\* may be arrested without a warrant by any officer in charge of a police-station or by any police-officer not below the rank of a sub-inspector."

Insertion of new section  
27A and 27B in Act III  
of 1911.

**12. After section 27 of the said Act, the following sections shall be inserted, under the heading "Supplemental" namely :—**

"27 A. The Local Government, if it is satisfied that adequate

Power to deport certain  
criminal tribes to States in  
India.

provision has been made by the law of any State in India for the restriction of the movements or the settlement in a place of residence of persons such as are referred to in section 3,

and for securing the welfare of persons so restricted or settled, may, with the consent of the Prince or Chief of that State, direct the removal to that State of any criminal tribe for the time being in the province, and may authorise the taking of all measures necessary to effect such removal.

Provided that no person shall be so removed if the Local Government is satisfied that he is a subject of His Majesty.

27 B. The references to a criminal tribe in sections 4, 5, 14, 17 and

References to a criminal  
tribe to include references  
to part or member thereof  
in certain cases.

27A, shall be deemed to be references to a criminal tribe or any part thereof, and the like references in sections 11, 13, 13A, 15 and 16 shall be deemed to be references to a criminal

tribe or any part or member thereof."

**ACT NO. II OF 1923.**

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 16th  
February, 1923.***An Act to supplement the Malabar (Completion of Trials) Act, 1922.**

WHEREAS it is expedient to supplement the Malabar (Completion of Trials) Act, 1922 ;\* It is hereby enacted as follows:—

Short title.

1. This Act may be called the Malabar (Completion of Trials) Supplementing Act, 1923.

2. On the expiration of the Malabar (Completion of Trials) Ordinance, 1922,† and notwithstanding such expiration, an appeal shall lie to the High Court of Judicature at Madras in any case in which an appeal would have lain to that Court but for such expiration, and every such appeal and every appeal presented to the High Court under that Ordinance before the date of such expiration shall be heard and decided by the High Court.

Appeals to lie notwithstanding expiration of Ordinance III of 1922.

Ordinance, 1922,† and notwithstanding such expiration, an appeal shall lie to the High Court of Judicature at Madras in any case in which an appeal would have lain to that Court but for such

expiration, and every such appeal and every appeal presented to the High Court under that Ordinance before the date of such expiration shall be heard and decided by the High Court.

**ACT NO. III OF 1923.**

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 23rd February, 1923.***An Act to provide for the restriction and control of the transport of cotton in certain circumstances.**

WHEREAS it is expedient for the purpose of maintaining the quality and reputation of the cotton grown in certain areas in British India to enable the restriction and control of the transport by rail and the import of cotton into those areas ; It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Cotton Transport Act, 1923.

(2) It extends to the whole of British India.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "certified copy", in relation to a licence, means a copy of the licence certified in the manner described in section 76 of the Indian Evidence Act, 1872,‡ by the authority by which the licence was granted ;

(b) "cotton" means every kind of unmanufactured cotton, that is to say, ginned and unginned cotton, cotton waste and cotton seed ;

\* Mad. Act I of 1923.

† III of 1922.

‡ I of 1872.

(c) "cotton waste" means droppings, strippings, fly and other waste products of a cotton-mill other than yarn waste ;

(d) "licence" means a licence granted under this Act ;

(e) "notified station" means a railway station specified in a notification under section 3 ;

(f) "prescribed" means prescribed by rules made under this Act ; and

(g) "protected area" means an area into which the import of cotton or of any kind of cotton has been prohibited by a notification under section 3.

3. (1) The Local Government may, for the purpose of maintaining the quality or reputation of the cotton grown in any area in the Province, by notification in the local official Gazette, prohibit the import of cotton or of any specified kind of cotton into that area save under, and in accordance with the conditions of, a licence:

Power to issue notification prohibiting import of cotton into protected area.

Provided that no such notification shall be deemed to prohibit the import into any protected area of packages containing any kind of cotton and not exceeding ten pounds avoirdupois weight.

(2) Any such notification may prohibit the delivery to, and the taking of delivery by, any person, at any specified railway station situated in the protected area, of any cotton, the import of which into that area is prohibited when such cotton has been consigned from a railway station not situated in that area, unless such person holds a licence for the import of the cotton into that area.

4. (1) Notwithstanding anything contained in the Indian Railways Act, 1890,\* or any other law for the time being in force, the station master of any railway station or any other railway servant responsible for the booking of goods or parcels at that station may refuse to receive for carriage at, or to forward or allow to be carried on the railway from, that station any cotton consigned to a notified station, being cotton of a kind of which the delivery at such notified station has been prohibited unless both stations are in the same protected area, or unless the consignor produces a certified copy of a licence for the import of the cotton into the protected area in which such notified station is situated.

Refusal to carry unlicensed cotton.

(2) Every certified copy of a licence when so produced shall be attached to the invoice or way-bill, as the case may be and shall accompany the consignment to its destination, and shall there be dealt with in the prescribed manner.

(3) Where by or under any law in force in the territories of any State in India the import into any area, or the delivery at any railway station, of cotton or of any kind of cotton has been prohibited, the Governor General in Council may, by notification in the Gazette of India, declare that the provisions of sub-section (1) shall apply in respect of cotton consigned to any such station as if such area and such station were respectively a protected area and a notified station, and as if any licence granted under such law were a licence granted under this Act.

5. (1) Where any cotton, the import of which into any protected area has been prohibited, has been consigned to Procedure where cotton arrives at notified station. and arrives at a notified station in any such protected area, the station master or other railway servant responsible for the receipt and delivery to the consignee of goods or parcels, as the case may be, at that station shall, unless both the notified station and the railway station from which the cotton has been consigned are situated in the same protected area, refuse to deliver the cotton until he is satisfied that the consignee holds a licence for the import of the cotton into the protected area in which such notified station is situated; and, if he is not so satisfied, or if within fourteen days the consignee or some person acting on his behalf does not appear in order to take delivery, shall return the cotton to the railway station from which it was consigned, together with an intimation that delivery of the cotton has been refused or has not been taken, as the case may be.

(2) Any station master or other railway servant receiving any cotton returned under sub-section (1), or returned with a like intimation from a railway station specified in a notification under sub-section (3) of section 4, shall cause to be served on the consignor in any manner authorised by section 141 of the Indian Railways Act, 1890,\* a notice stating that the cotton has been so returned and requiring the consignor to pay any rate, terminal or other charges due in respect of the carriage of the cotton to and from the railway station to which it was consigned, and such charges shall be deemed to be due from the consignor for all the purposes of section 55 of that Act.

6. Any person who, in contravention of the provisions of this Act or of any notification or rule made hereunder, knowingly takes delivery of any cotton from a notified station or imports, or attempts to import, any cotton into a protected area, and any station master or other railway servant who, in contravention of the provisions of sub-section (1) of section 5, without reasonable excuse, the burden of proving which shall lie upon him, delivers any cotton to a consignee or other person, shall be liable to a fine not exceeding one thousand rupees, and upon any subsequent conviction to imprisonment which may extend to three months, or to fine which may extend to five thousand rupees, or to both.

7. (1) The Local Government may, by notification in the local official Gazette make rules to provide for any of the following matters, namely:—

Power to make rules.

- (a) the prevention of the import into a protected area by road, river or sea, save under and in accordance with the conditions of a licence, of cotton the import of which into that area has been prohibited by a notification under section 3;
- (b) the terms and conditions to be contained in licences and the authorities by which they may be granted; and
- (c) the manner in which licences and certified copies thereof shall be dealt with on and after the delivery of the cotton to which they relate.

(2) Any such rules may provide that any contravention thereof or of the conditions of any licence, not otherwise made punishable by this Act, shall be punishable with fine which may extend to five hundred rupees.

8. No notification under section 3 or rule under section 7 shall be issued by the Local Government of any Governor's Province, unless it has been laid in draft before the Legislative Council of the Province, and has been approved by a resolution of the Legislative Council, either with or without modification or addition, but upon such approval being given the notification or rule, as the case may be, may be issued in the form in which it has been so approved.

9. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

## ACT NO. IV OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 23rd February 1923.*

### An Act to amend and consolidate the law relating to the regulation and inspection of mines.

WHEREAS it is expedient to amend and consolidate the law relating to the regulation and inspection of mines ; it is hereby enacted as follows :—

#### CHAPTER I.

##### PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Indian Mines Act, 1923.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on the first day of July, 1924.

Saving of Reg. XII of 1887, Regulation, 1887.\*

2. Nothing in this Act shall be construed to affect the provisions of the Upper Burma Ruby

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

- (a) "agent," when used in relation to a mine, means any person appointed or acting as the representative of the owner in respect of the management of the mine or of any part thereof, and as such superior to a manager under this Act ;
- (b) "Chief Inspector" means the Chief Inspector of Mines appointed under this Act ;
- (c) "child" means a person under the age of thirteen years ;

- (d) a person is said to be "employed" in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations ;
- (e) "Inspector" means a Inspector of Mines appointed under this Act, and includes a District Magistrate when exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform ;
- (f) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes all works, machinery tramways and sidings, whether above or below ground, in or adjacent to or belonging to a mine :  
provided that it shall not include any part of such premises on which a manufacturing process is being carried on unless such process is a process for coke making or the dressing of minerals ;
- (g) "owner," when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof, but does not include a person who merely receives a royalty, rent or fine from the mine or is merely the proprietor of the mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine ; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability ;
- (h) "prescribed" means prescribed by regulations, rules or bye-laws ;
- (i) "qualified medical practitioner" means any person registered under the Medical Act, 1858,\* or any Act amending the same or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, and includes, in any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the Local official Gazette, to be a qualified medical practitioner for the purposes of this Act ;
- (j) "regulations," "rules" and "bye laws" mean respectively regulations, rules and bye-laws made under this Act ;
- (k) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb or the enforced absence of the injured person from work for a period exceeding twenty days ; and
- (l) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

## CHAPTER II.

## INSPECTORS.

Chief Inspector and Inspectors.

(1) The Governor General in Council may, by notification in the Gazette of India, appoint a duly qualified person to be Chief Inspector of Mines for the whole of British India, and duly qualified persons to be Inspectors of Mines subordinate to the Chief Inspector.

(2) No person shall be appointed to be Chief Inspector or an Inspector, or, having been appointed shall continue to hold such office who is or becomes directly or indirectly interested in any mine or mining rights in India.

(3) The District Magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the Local Government.

Provided that nothing in this sub-section shall be deemed to empower a District Magistrate to exercise any of the powers conferred by section 19 or section 32.

(4) The Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code.

5. (1) The Chief Inspector may, by order\* in writing, prohibit or restrict the exercise by any Inspector named, Functions of Inspectors. or any class of Inspectors specified, in the order of any power conferred on Inspectors by this Act, and shall subject as aforesaid, declare the local area or areas within which, or the group or class of mines with respect to which, Inspectors shall exercise their respective powers.

(2) The Inspector shall give information to owners, agents and managers of mines, situate within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under sub-section (1) as to all regulations and rules which concern them respectively and as to the places where copies of such regulations and rules may be obtained.

Powers of Inspectors of Mines. 6. The Chief Inspector and any Inspector may—

- (a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder are observed in the case of any mine ;
- (b) with such assistants (if any) as he thinks fit, enter, inspect and examine any mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine ;
- (c) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the



mine, the sufficiency of the bye-laws for the time being in force relating to the mine, and all matters and things connected with or relating to the safety of the persons employed in the mine.

7. Any person in the service of the Government duly authorised by a special order in writing of the Chief Inspector or of an Inspector in this behalf may, for the purpose of surveying, levelling or measuring in any mine, after giving not less than three days' notice, to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine.

8. Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 7 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act.

9. (1) All copies of, and extracts from, registers or other records ap-  
Secrecy of information obtained. pertaining to any mine, and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection of any mine under this Act or acquired by any person authorised under section 7 in the exercise of his duties thereunder, shall be regarded as confidential.

(2) If the Chief Inspector, or an Inspector or any other person referred to in sub-section (1) discloses to any one, other than a Magistrate or an officer to whom he is subordinate, any such information as afore-said without the consent of the Governor General in Council or of the Local Government, he shall be guilty of a breach of official trust, and shall be punishable in the manner provided by section 4 of the Indian Official Secrets Act, 1889.\*

(3) No Court shall proceed to the trial of any offence under this section except on complaint made by order of, or under authority from, the Governor General in Council or the Local Government, or made by a person aggrieved by the offence.

### CHAPTER III.

#### MINING BOARDS AND COMMITTEES.

10. (1) The Local Government may constitute for the province, or Mining Boards. for any part of the province, or for any group or class of mines in the province, a Mining Board consisting of—

(a) a person in the service of the Government, not being the Chief Inspector or an Inspector, nominated by the Local Government to act as chairman;

(b) the Chief Inspector or an Inspector;

- (c) two persons, neither of whom shall be the Chief Inspector or an Inspector nominated by the Local Government, of whom one shall be a person qualified to represent the interests of persons employed in mines ;
- (d) two persons nominated by owners of mines or their representatives in such manner as may be prescribed.
- (2) The chairman shall appoint a person to act as secretary to the Board.
- (3) The Local Government may give directions as to the payment of travelling expenses incurred by the secretary or any member of any such Mining Board in the performance of his duty as such secretary or member.

**II. (1)** Where under this Act any question relating to a mine is referred to a Committee, the Committee shall consist of—  
Committees.

- (a) a chairman nominated by the Local Government or by such officer or authority as the Local Government may authorise in this behalf ;
- (b) a person nominated by the chairman and qualified by experience to dispose of the question referred to the Committee ; and
- (c) two persons of whom one shall be nominated by the owner, agent or manager of the mine concerned, and the other shall be nominated by the Local Government to represent the interests of the persons employed in the mine.

(2) No Inspector or person employed in or in the management of any mine concerned shall serve as chairman or member of a Committee appointed under this section.

(3) Where an owner, agent or manager fails to exercise his power of nomination under clause (c) of sub-section (1), the Committee may, notwithstanding such failure, proceed to inquire into and dispose of the matter referred to it.

(4) The Committee shall hear and record such information as the Chief Inspector or the Inspector, or the owner, agent or manager of the mine concerned, may place before it, and shall intimate its decision to the Chief Inspector or the Inspector and to the owner, agent or manager of the mine, and shall report its decision to the Local Government.

(5) On receiving such report the Local Government shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or manager of the mine has lodged an objection to the decision of the Committee, in which case the Local Government may proceed to review such decision and to pass such orders in the matter as it may think fit. If an objection is lodged by the Chief Inspector, notice of the same shall forth-with be given to the owner, agent or manager of the mine.

(6) The Local Government may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and as to the payment of the expenses of the inquiry including such remuneration.

**12. (1)** Any Mining Board constituted under section 10 and any Committee constituted under section 11 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to it.

**(2)** Every Mining Board constituted under section 10 and every Committee appointed under section 11 shall have the powers of a Civil Court under the Code of Civil Procedure, 1908,\* for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by any such Mining Board or Committee to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code.†

**13.** The Local Government may direct that the expenses of any inquiry conducted by a mining Board constituted under section 10 or by a Committee appointed under section 11 shall be borne in whole or in part by the owner or agent of the mine concerned, and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a magistrate having jurisdiction at the place where the mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to such owner, agent or manager.

## CHAPTER IV.

### MINING OPERATIONS AND MANAGEMENT OF MINES.

**14.** The owner, agent or manager of a mine shall, in the case of an existing mine within one month from the commencement of this Act, or, in the case of a new mine, within three months after the commencement of mining operations, give to the District Magistrate of the district in which the mine is situated notice in writing in such form and containing such particulars relating to the mine as may be prescribed.

**15 (1)** Save as may be otherwise prescribed, every mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the mine, and the owner or agent of every mine shall appoint himself or some other person, having such qualifications, to be such manager.

**(2)** If any mine is worked without there being a manager for the mine as required by sub-section (1), the owner and agent shall each be deemed to have contravened the provisions of this section.

**16. (1)** The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this act and of the regulations, rules and bye-laws and of any orders made thereunder.

\* V of 1908.

† XLV of 1860.

(2) In the event of any contravention of any such provisions by any person whomsoever, the owner, agent and manager of the mine shall each be deemed also to be guilty of such contravention unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing those provisions, to prevent such contravention :

Provided that the owner or agent shall not be so deemed if he proves—

(a) that he was not in the habit of taking, and did not in respect of the matter in question take, any part in the management of the mine ; and

(b) that he had made all financial and other provisions necessary to enable the manager to carry out his duties ; and

(c) that the offence was committed without his knowledge, consent or connivance.

(3) Save as hereinbefore provided, it shall not be a defence in any proceedings brought against an owner or agent of a mine under this section that a manager of the mine has been appointed in accordance with the provisions of this Act.

## CHAPTER V.

### PROVISIONS AS TO HEALTH AND SAFETY.

17. There shall be provided and maintained for every mine latrine and urinal accommodation of such kind and on such scale, and such supply of water fit for drinking, as may be prescribed.

18. At every mine in respect of which the Local Government may, by notification in the the local official Gazette, declare this section to apply, such supply of ambulances or stretchers, and of splints, bandages and other medical requirements, as may be prescribed, shall be kept ready at hand in a convenient place and in good and serviceable order.

19. (1) If, in any respect which is not provided against by any express provision of this Act or of the regulations, rules or bye-laws or of any orders made thereunder, it appears to the Chief Inspector or the Inspector that any mine, or any part thereof or any matter, thing or practice in or connected with the mine or with the control, management or direction thereof, is dangerous to human life or safety, or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in the notice the particulars in which he considers the mine or part thereof, or the matter, thing or practice, to be dangerous or defective and require the same to be remedied within such time as he may specify in the notice.

(2) If the Chief Inspector or an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector is of opinion that there is urgent and immediate danger to the life or safety of any

person employed in any mine or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit, until the danger is removed, the employment in or about the mine or part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(3) Where an order has been made under sub-section (2) by an Inspector, the owner, agent or manager of the mine may, within ten days after the receipt of the order, appeal against the same to the Chief Inspector who may confirm, modify or cancel the order.

(4) The Chief Inspector or the Inspector making a requisition under sub-section (1) or an order under sub-section (2), and the Chief Inspector making an order (other than an order of cancellation in appeal under sub-section (3)), shall forthwith report the same to the Local Government and shall inform the owner, agent or manager of the mine that such report has been so made.

(5) If the owner, agent or manager of the mine objects to a requisition made under sub-section (1) or to an order made by the Chief Inspector under sub-section (2), or sub-section (3), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing, stating the grounds thereof, to the Local Government, which shall refer the same to a Committee.

(6) Every requisition made under subsection (1), or order made under sub-section (2), or sub-section (3), to which objection is made under sub-section (5), shall be complied with pending the receipt at the mine of the decision of the Committee :

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (1) pending its decision on the objection.

(7) Nothing in this section shall affect the powers of a Magistrate under section 144 of the Code of Criminal Procedure, 1898.\*

**20.** When any accident occurs in or about a mine causing loss of life or serious bodily injury, or when an accidental explosion, ignition, outbreak of fire or irruption of water occurs in or about a mine, the owner, agent or manager of the mine shall give such notice of the occurrence to such authorities, and in such form, and within such time, as may be prescribed.

**21. (1)** When any accidental explosion, ignition, outbreak of fire or irruption of water or other accident has occurred in or about any mine, the Local Government if it is of opinion that a formal inquiry into the causes of, and circumstances attending, the accident ought to be held, may appoint a competent person to hold such inquiry, and may also appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

(2) The person appointed to hold any such inquiry shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908\*, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects ; and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code.†

(3) Any person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(4) The person holding an inquiry under this section shall make a report to the Local Government stating the causes of accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make.

22. The Local Government may cause any report submitted by a committee under section 11 or by a court of inquiry under section 21 to be published at such time and in such manner as it may think fit.

## CHAPTER VI.

### HOURS AND LIMITATION OF EMPLOYMENT.

Hours of employment. 23. No person shall be employed in a mine—

(a) on more than six days in any one week,

(b) If he works above ground, for more than sixty hours in any one week,

(c) if he works below ground, for more than fifty four hours in any one week.

24 Nothing in section 23 shall apply to persons who may by rules be defined to be persons holding positions of supervision or management or employed in a confidential capacity.

25. In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, the manager may, subject to the provision of section 19, permit persons to be employed in contravention of section 23 on such work as may be necessary to protect the safety of the mine or of the persons employed therein :

Provided that, where such occasion arises, a record of the fact shall immediately be made by the manager and shall be placed before the Chief Inspector or the Inspector at his next inspection of the mine.

Children. 26 No child shall be employed in a mine, or be allowed to be present in any part of a mine which is below ground.

\* V of 1908.

† XLV of 1860.

**27. (1)** If any question arises between the Chief Inspector or the Inspector and the manager of any mine as to whether any person is a child, the question shall in the absence of a certificate as to the age of such person granted in the prescribed manner, be referred by the Chief Inspector or the Inspector for decision to a qualified medical practitioner.

**(2)** Every certificate as to the age of a person which has been granted in the prescribed manner and any certificate granted by a qualified medical practitioner on a reference under sub-section (1) shall, for the purposes of this Act, be conclusive evidence as to the age of the person to whom it relates.

**28.** For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine, of their hours of work, of their days of rest, and of the nature of their respective employments.

## CHAPTER VII.

### REGULATIONS, RULES AND BYE-LAWS.

**29.** The Governor General in Council may by notification in the Gazette of India, make regulations consistent with this Act for all or any of the following purposes, namely —

- (a) for prescribing the qualifications to be required by a person for appointment as Chief Inspector or Inspector ;
- (b) for prescribing and regulating the duties and power of the Chief Inspector and of Inspectors in regard to the inspection of mine under this Act ;
- (c) for prescribing the duties of owners, agents and managers of mines and of persons acting under them ;
- (d) for prescribing the qualifications of managers of mines and of persons acting under them ;
- (e) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency ;
- (f) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates ;
- (g) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualifications.
- (h) for providing for the making of inquiries into charges of misconduct or incompetency on the part of managers of mines and persons acting under them and for the suspension and cancellation of certificates of competency ;

- (i) for regulating, subject to the provisions of the Indian Explosives Act, 1884,\* and of any rules made thereunder, the storage and use of explosives ;
- (j) for prohibiting, restricting or regulating the employment in mines or in any class of mines of women either below ground or on particular kinds of labour which are attended by danger to the life, safety or health of such women ;
- (k) for providing the safety of the persons employed in a mine, their means of entrance thereinto and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences ;
- (l) for providing for the safety of the roads and working places in mines, including the siting and maintenance of pillars and the maintenance of sufficient barriers between mine and mine ;
- (m) for providing for the ventilation of mines and the action to be taken in respect of dust and noxious gases ;
- (n) for providing for the care, and the regulation of the use, of all machinery and plant and of all electrical apparatus used for signalling purposes ;
- (o) for requiring and regulating the use of safety lamps in mines ;
- (p) for providing against dangers arising out of the accumulation of water in mines ;
- (q) for prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters provided for by regulations, to be furnished by owners, agents, and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted.
- (r) for prescribing the plans to be kept by owners, agents and managers of mines and the manner and places in which such plans are to be kept for purposes of record ;
- (s) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines ;
- (t) for prescribing form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 14 ; and
- (u) for prescribing the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890† or of any public work or classes of public works which the Local Government may, by general or special order, specify in this behalf.

\* IV of 1884.

† IX of 1890.



**30.** The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, make rules consistent with this Act for all or any of the following purposes, namely:—

- (a) for providing for the appointment of chairmen and members of Mining Boards, and for regulating the procedure of such Boards.
- (b) for providing for the appointment of courts of inquiry under section 21, for regulating the procedure and powers of such courts, for the payment of travelling allowance to the members, and for the recovery of the expenses of such courts from the manager, owner or agent of the mine concerned ;
- (c) for prescribing the scale of latrine and urinal accommodation to be provided at mines, the provision to be made for the supply of drinking-water, the supply and maintenance of medical appliances and comforts, the formation and training of rescue brigades, and the training of men in ambulance work ;
- (d) for defining the persons who shall, for the purposes of section 24, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity ;
- (e) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner to be more than thirteen years of age, and for prescribing the manner and the circumstances in which such certificates may be granted and revoked ;
- (f) for prescribing the form of register required by section 28 ;
- (g) for prescribing abstracts of this Act and the vernacular in which the abstracts and the regulations, rules and bye-laws shall be posted as required by sections 32 and 33 ;
- (h) for requiring the fencing of any mine or part of a mine, whether the same is being worked or not, where such fencing is necessary for the protection of the public ;
- (i) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in His majesty or any local authority or railway company as defined in the Indian Railways Act, 1890 ;\*
- (j) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the times within which they are to be submitted ; and
- (k) generally to provide for any matter not provided for by this Act or the regulations, provision for which is required in order to give effect to this Act.

**31. (1)** The power to make regulations and rules conferred by sections 29 and 30 is subject to the condition of the regulations and rules being made after previous publication.

Prior publication of regulations and rules.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897,\* as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

(3) Before the draft of any regulation or rule is published under this section it shall be referred in the case of a regulation to every Mining Board constituted in British India, and in the case of a rule to every Mining Board constituted in the province; and regulation or rule shall not be so published until each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

(4) Regulations and rules shall be published in the Gazette of India and the local official Gazette, respectively, and, on such publication, shall have effect as if enacted in this Act.

**32. (1)** The owner, agent or manager of a mine may, and shall, if called upon to do so by the Chief Inspector or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bye-laws, not being inconsistent with this Act or any regulations or rules for the time being in force, for the control and guidance of the persons acting in the management of, or employed in, the mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

Bye-laws.

(2) If any such owner, agent or manager—

(a) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector or Inspector, or

(b) submits a draft of bye-laws which is not in the opinion of the Chief Inspector or Inspector sufficient,

the Chief Inspector or Inspector may—

(i) propose a draft of such bye-laws as appear to him to be sufficient, or

(ii) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion, render it sufficient,

and shall send such draft bye-laws or draft amendments to the owner, agent or manager, as the case may be, for consideration.

(3) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, agent or manager under the provisions of sub-section (2), the Chief Inspector or Inspector and the owner, agent, or manager are unable to agree as to the terms of the bye-laws to be made under sub-section (1), the Chief Inspector or Inspector shall refer the

draft bye-laws for settlement for settlement to the Mining Board or, where there is no Mining Board, to such officer or authority as the Local Government may, by general or special order, appoint in this behalf.

(4) (a) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the Mining Board or such officer or authority as aforesaid, a copy of the draft bye-laws shall be sent by the Chief Inspector or Inspector to the Local Government for approval.

(b) The Local Government may make such modifications of the draft bye-laws as it thinks fit.

(c) Before the Local Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Local Government may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected, should be sent to the Local Government.

(d) Every objection shall be in writing and shall state—

(i) the specific grounds of objection and

(ii) the omissions, additions or modifications asked for.

(e) The Local Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Local Government, shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye-laws, in English and in such vernacular or vernaculars as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable despatch.

(6) The Local Government may, by order in writing, rescind, in whole or in part, any bye-law so made, and thereupon such bye-law shall cease to have effect accordingly.

33. There shall be kept posted up at or near every mine in English

Posting up of extracts  
from Act, regulations, etc.

and in such vernacular or vernaculars as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

## CHAPTER VIII.

## PENALTIES AND PROCEDURE.

**34. (1)** Whoever obstructs the Chief Inspector, an Inspector or any person authorised under section 7 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, an Inspector or such person any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both.

**(2)** Whoever refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent, any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to three hundred rupees.

**35. Whoever—**

Falsification of records, etc.

- (a) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or
- (b) knowingly uses as true any such counterfeit or false certificate, or
- (c) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or
- (d) falsifies any plan or register or record the maintenance of which is required by or under this Act, or
- (e) makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**36. Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or**

Omission to furnish plans, etc. furnish in the prescribed form or manner or at or within the prescribed time any plan, return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to two hundred rupees.

**37.** Whoever, save as permitted by section 25, contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with fine which may extend to five hundred rupees.

*Contravention of provisions regarding employment of labour.*

**38.** Whoever, in contravention of the provisions of section 20, fails to give notice of any accidental occurrence shall be punishable with fine which may extend to five hundred rupees, or, if the occurrence results in loss of life, be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both.

*Notice of accidents.*

**39.** Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing contravention, with a further fine which may extend to one hundred rupees for every day on which the offender is proved to have persisted in the contravention after the date of the first conviction.

*Disobedience of orders.*

**40. (1)** Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder, shall be punishable, if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both; or, if such contravention results in serious bodily injury, with imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both; or, if such contravention otherwise causes injury or danger to workers or other persons in or about the mine, with imprisonment which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

*Contravention of law with dangerous results.*

**(2)** Where a person having been convicted under this section is again convicted thereunder, he shall be punishable with double the punishment provided by sub-section (1).

**(3)** Any Court imposing, or confirming in appeal, revision or otherwise, a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or, in the case of his death, to his legal representative :

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.

**41.** No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the District Magistrate or of an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector.

*Prosecution of owner, agent or manager.*

**42.** No Court shall take cognizance of any offence under this Act unless complaint thereof has been made within six months of the date on which the offence is alleged to have been committed.

Limitation of prosecutions.

**43.** No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment.

Cognizance of offences.

**44. (1)** If the Court trying any case instituted at the instance of the Chief Inspector or of the District Magistrate or of an Inspector under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee, it may stay the criminal proceedings, and report the matter to the Local Government with a view to such reference being made.

Reference to Mining Board or Committee in lieu of prosecution in certain cases.

**(2)** On respect of a report under sub-section (1), the Local Government may refer the case to a Mining Board or a Committee, or may direct the Court to proceed with the trial.

## CHAPTER IX.

### MISCELLANEOUS.

**45.** If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the Local Government may decide the question, and a certificate signed by a Secretary to the Local Government shall be conclusive on the point.

Decision of question whether a mine is under this Act.

**46. (1)** The Governor General in Council may, by notification in the Gazette of India, exempt any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any specified provisions of this Act :

Power to exempt from operation of Act.

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of section 26 unless it is also exempted from the operation of all the other provisions of this Act.

**(2)** On the occurrence of any public emergency, the Local Government may, by an order in writing, confer any exemption which might be conferred by the Governor General in Council under sub-section (1). When such an order is made, a copy thereof shall forthwith be sent to the Governor General in Council.

**47.** The Governor General in Council and every Local Government may reverse or modify any order passed under this Act by any authority subject to his or its control, as the case may be.

Power to alter or rescind orders.

Application of Act to  
Crown mines.

**48.** This Act shall apply to mines belonging to the Crown.

**49.** No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

**50.** On and from the commencement of this Act, the enactments mentioned in the Schedule shall be repealed to the extent specified in the fourth column thereof.

### THE SCHEDULE.

(See section 50)

#### ENACTMENTS REPEALED.

Year.	No.	Short title.	Extent of repeal.
1901	VIII	The Indian Mines Act, 1901.	The whole.
1914	IV	The Decentralisation Act, 1914.	So much of the Schedule as relates to the Indian Mines Act, 1901.
..	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Mines Act, 1901.

**ACT NO V OF 1923.**

PASSED BY THE INDIAN LEGISLATURE RECEIVED THE ASSENT OF  
THE GOVERNOR GENERAL.

*On the 23rd February, 1923.*

**An Act to consolidate and amend the law relating  
to steam-boilers.**

WHEREAS it is expedient to consolidate and amend the law relating to steam-boilers ; It is hereby enacted as follows ;—

Short title, extent and commencement. **1. (1)** This Act may be called the Indian Boilers Act, 1923.

**(2)** It extends to the whole of British India, including British Baluchistan and the Santhal Parganas.

**(3)** It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions. **2.** In this Act, unless there is anything repugnant in the subject or context,—

- (a)** “accident” means an explosion of a boiler or steam-pipe or any damage to a boiler or steam-pipe which is calculated to weaken the strength thereof so as to render it liable to explode ;
- (b)** “boiler” means any closed vessel exceeding five gallons in capacity which is used expressly for generating steam under pressure for use outside such vessel, and includes any mounting or other fitting attached to such vessel which is wholly or partly under pressure when steam is shut off ;
- (c)** “Chief Inspector” and “Inspector” mean, respectively, a person appointed to be Chief Inspector and an Inspector under this Act.
- (d)** “owner” includes any person using a boiler as agent of the owner thereof and any person using a boiler which he has hired or obtained on loan from the owner thereof ;
- (e)** “prescribed” means prescribed by regulations or rules made under this Act ;
- (f)** “steam-pipe” means any main pipe exceeding three inches in internal diameter through which steam passes directly from a boiler to a prime-mover or other first user, and includes any connected fitting of a steam-pipe ; and
- (g)** “structural alteration, addition or renewal” shall not be deemed to include any renewal or replacement of a petty nature when the part or fitting used for replacement is not inferior in strength, efficiency or otherwise to the replaced part or fitting.

Limitation of application. **3. (1)** Nothing in this Act shall apply in the case of any boiler or steam pipe—



(a) in any steam-ship as defined in section 3 of the Indian Steam ships Act, 1884,\* or in any steam-vessel as defined in section 2 of the Inland Steam-vessels Act, 1917; † or

(b) belonging to or under the control of His Majesty's Navy or the Royal Indian Marine Service.

(2) The Governor General in Council may, by notification in the Gazette of India, declare that the provisions of this Act shall not apply in the case of boilers or steam-pipes, or any specified class of boilers or steam-pipes, belonging to or under the control of any railway administered by the Government or by any railway company as defined in clause (5) of section 3 of the Indian Railways Act, 1890.‡

4. The Governor General in Council may, by notification in the Gazette of India, exclude any specified area from the operation of all or any specified provisions of this Act.

5. (1) The Local Government may appoint such persons as it thinks fit to be Inspectors for the province for the purposes of this Act, and may define the local limits within which each Inspector shall exercise the powers and perform the duties conferred and imposed on Inspectors by or under this Act.

(2) The Local Government shall likewise appoint a person to be Chief Inspector for the province, who may, in addition to the powers and duties conferred or imposed on the Chief Inspector by or under this Act, exercise any power or perform any duty so conferred or imposed on Inspectors.

(3) Every Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code.

6. Save as otherwise expressly provided in this Act, no owner of a boiler shall use the boiler or permit it to be used—

(a) unless it has been registered in accordance with the provisions of this Act ;

(b) in the case of any boiler which has been transferred from one province to another, until the transfer has been reported in the prescribed manner ;

(c) unless a certificate or provisional order authorising the use of the boiler is for the time being in force under this Act ;

(d) at a pressure higher than the maximum pressure recorded in such certificate or provisional order ;

(e) where the Local Government has made rules requiring that boilers shall be in charge of persons holding certificates of competency, unless the boiler is in charge of a person holding the certificate required by such rules :

\* VII of 1884.

† I of 1917.

‡ IX of 1890.

Provided that any boiler registered, or any boiler certified or licensed, under any Act hereby repealed shall be deemed to have been registered or certified, as the case may be, under this Act :

Provided, further, that, until the expiration of twelve months from the commencement of this Act, nothing in this section shall be deemed to prohibit the use of any local area in which the registration of, or a certificate or licence for the use of, a boiler was not previously required by law.

7. (1) The owner of any boiler which is not registered under the provisions of this Act may apply to the Inspector to have the boiler registered. Every such application shall be accompanied by the prescribed fee.

(2) On receipt of an application under sub-section (1), the Inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of receipt, for the examination of the boiler and shall give the owner thereof not less than ten day's notice of the date so fixed.

(3) On the said date the Inspector shall proceed to measure and examine the boiler and to determine in the prescribed manner the maximum pressure, if any, at which such boiler may be used, and shall report the result of the examination to the Chief Inspector in the prescribed form.

(4) The Chief Inspector, on receipt of report, may—

(a) register the boiler and assign a register number thereto either forthwith or after satisfying himself that any structural alteration, addition or renewal which he may deem necessary has been made in or to the boiler or any steam-pipe attached thereto, or

(b) refuse to register the boiler :

Provided that where the Chief Inspector refuses to register a boiler, he shall forthwith communicate his refusal to the owner of the boiler together with the reasons therefor.

(5) The Chief Inspector shall on registering the boiler, order the issue to the owner of a certificate in the prescribed form authorising the use of the boiler for a period not exceeding twelve months at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act.

(6) The Inspector shall forthwith convey to the owner of the boiler the orders of the Chief Inspector and shall in accordance therewith issue to the owner any certificate of which the issue has been ordered, and, where the boiler has been registered, the owner shall within the prescribed period cause the register number to be permanently marked thereon in the prescribed manner.

8. (1) A certificate authorising the use of a boiler shall cease to be in force—

Renewal of certificate.

(a) on the expiry of the period for which it was granted ; or

(b) when any accident occurs to the boiler ; or

- (c) when the boiler is moved, the boiler not being a vertical boiler the heating surface of which is less than two hundred square feet, or a portable or vehicular boiler ; or
- (d) when any structural alteration, addition or renewal is made in or to the boiler ; or
- (e) if the Chief Inspector in any particular case so directs, when any structural alteration, addition or renewal is made in or to any steam-pipe attached to the boiler ; or
- (f) on the communication to the owner of the boiler of an order of the Chief Inspector or Inspector prohibiting its use on the ground that it or any steam-pipe attached thereto is in a dangerous condition.

(2) Where an order is made under clause (f) of sub-section (1), the grounds on which the order is made shall be communicated to the owner with the order.

(3) When a certificate ceases to be in force, the owner of the boiler may apply to the Inspector for a renewal thereof for such period not exceeding twelve months as he may specify in the application.

(4) An application under sub-section (3) shall be accompanied by the prescribed fee and, on receipt thereof, the Inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of the receipt, for the examination of the boiler and shall give the owner thereof not less than ten days' notice of the date so fixed :

Provided that, where the certificate has ceased to be in force owing to the making of any structural alteration, addition or renewal, the Chief Inspector may dispense with the payment of any fee.

(5) On the said date the Inspector shall examine the boiler in the prescribed manner, and if he is satisfied that the boiler and the steam-pipe or steam-pipes attached thereto are in good condition shall issue a renewed certificate authorising the issue of the boiler for such period not exceeding twelve months and at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act :

Provided that if the Inspector—

(a) proposes to issue any certificate—

- (i) having validity for a less period than the period entered in the application, or
- (ii) increasing or reducing the maximum pressure at which the boiler may be used, or

(b) proposes to order any structural alteration, addition or renewal to be made in or to the boiler or any steam-pipe attached thereto, or

(c) is of opinion that the boiler is not fit for use, the Inspector shall, within forty-eight hours of making the examination, inform the owner of the boiler in writing of his opinion and the reasons therefor, and shall forthwith report the case for orders to the Chief Inspector.

(6) The Chief Inspector, on receipt of a report under sub-section (5), may, subject to the provisions of this Act and of the regulations made hereunder, order the renewal of the certificate in such terms and on such conditions, if any, as he thinks fit, or may refuse to renew it :

Provided that where the Chief Inspector refuses to renew a certificate, he shall forthwith communicate his refusal to the owner of the boiler, together with the reasons therefor.

(7) Nothing in this section shall be deemed to prevent an owner of a boiler from applying for a renewed certificate therefor at any time during the currency of a certificate.

9. Where the Inspector reports the case of any boiler to the Chief Inspector under sub-section (3) of section 7 or sub-section (5) of section 8, he may, if the boiler is not a boiler the use of which has been prohibited under clause (f) of sub-section (1) of section 8, grant to the owner thereof of a provisional order in writing permitting the boiler to be used at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act pending the receipt of the orders of the Chief Inspector. Such provisional order shall cease to be in force—

- (a) on the expiry of six months from the date on which it is granted, or
- (b) on receipt of the orders of the Chief Inspector, or
- (c) in any of the cases referred to in clauses (b), (c), (d), (e) and (f) of sub-section (1) of section 8,

and on so ceasing to be in force shall be surrendered to the Inspector.

10. (1) Notwithstanding anything hereinbefore contained, when the period of a certificate relating to a boiler has expired, the owner shall, provided that he has applied before the expiry of that period for a renewal of the certificate, be entitled to use the boiler at the maximum pressure entered in the former certificate pending the issue of orders on the application.

(2) Nothing in sub-section (1) shall be deemed to authorise the use of a boiler in any of the cases referred to in clauses (b), (c), (d), (e) and (f) of sub-section (1) of section 8 occurring after the expiry of the period of the certificate.

11. The Chief Inspector may at any time withdraw or revoke any certificate or provisional order on the report of an Inspector or otherwise—

- (a) if there is reason to believe that the certificate or provisional order has been fraudulently obtained or has been granted erroneously or without sufficient examination ; or
- (b) if the boiler in respect of which it has been granted has sustained injury or has ceased to be in good condition ; or
- (c) where the Local Government has made rules requiring that boilers shall be in charge of persons holding certificates of competency, if the boiler is in charge of a person not holding the certificate required by such rules ; or

- (d) where no such rules have been made, if the boiler is in charge of a person who is not, having regard to the condition of the boiler, in the opinion of the Chief Inspector competent to have charge thereof :

Provided that where the Chief Inspector withdraws or revokes a certificate or provisional order on the ground specified in clause (d), he shall communicate to the owner of the boiler his reasons in writing for the withdrawal or revocation, and the order shall not take effect until the expiry of thirty days from the receipt of such communication.

**12.** No structural alteration, addition or renewal shall be made in or to any boiler registered under this Act unless such alteration, addition or renewal has been sanctioned in writing by the Chief Inspector.

Alterations and renewals to boilers.

**13.** Before the owner of any boiler registered under this Act makes any structural alteration, addition or renewal in or to any steam-pipe attached to the boiler, he shall transmit to the Chief Inspector a report in writing of his intention, and shall send therewith such particulars of the proposed alteration, addition or renewal as may be prescribed.

Alterations and renewals to steam pipes.

**14** (1) On any date fixed under this Act for the examination of a boiler, the owner thereof shall be bound—

Duty of owner at examination.

- (a) to afford to the Inspector all reasonable facilities for the examination and all such information as may reasonably be required of him ;
- (b) to have the boiler properly prepared and ready for examination in the prescribed manner ; and
- (c) in the case of an application for the registration of a boiler, to provide such drawings, specifications, certificates and other particulars as may be prescribed.

(2) If the owner fails, without reasonable cause to comply with the provisions of sub-section (1), the Inspector shall refuse to make the examination and shall report the case to the Chief Inspector who shall, unless sufficient cause to the contrary is shown, require the owner to file a fresh application under section 7 or section 8, as the case may be, and may forbid him to use the boiler notwithstanding anything contained in section 10.

**15.** The owner of any boiler who holds a certificate or provisional order relating thereto shall, at all reasonable times during the period for which the certificate or order is in force, be bound to produce the same when called upon to do so by a District Magistrate, Commissioner of Police or Magistrate of the first class having jurisdiction in the area in which the boiler is for the time being, or by the Chief Inspector or by an Inspector or by any Inspector appointed under the Indian Factories Act,\* 1911, or by any person specially authorised in writing by District Magistrate or Commissioner of Police.

Production of certificates, etc.

**16.** If any person becomes the owner of a boiler during the period Transfer of certificates, for which a certificate or provisional order relating etc. thereto is in force, the preceeding owner shall be bound to make over to him the certificate or provisional order.

**17.** An Inspector may, for the purpose of inspecting or examining a boiler or any steam-pipe attached thereto or Powers of entry. of seeing that any provision of this Act or of any regulation or rule made hereunder has been or is being observed, at all reasonable times enter any place building within the limits of the area for which he has been appointed in which he has reason to believe that a boiler is in use.

**18. (1)** If any accident occurs to a boiler or steam-pipe, the owner or person in charge thereof shall, within twenty-four hours of the accident, report the same in writing to the Inspector. Every such report shall contain a true description of the nature of the accident and of the injury, if any, caused thereby to the boiler or to the steam-pipe or to any person, and be in sufficient detail to enable the Inspector to judge of the gravity of the accident.

**(2)** Every person shall be bound to answer truly to the best of his knowledge and ability every question put to him in writing by the Inspector as to the cause, nature or extent of the accident.

**19.** Any person considering himself aggrieved Appeals to Chief Inspector. by—

(a) an order made or purporting to be made by an Inspector in the exercise of any power conferred by or under this Act, or

(b) a refusal of an Inspector to make any order to issue any certificate which he is required or enabled by or under this Act to make or issue,

may, within thirty days from the date on which such order or refusal is communicated to him, appeal against the order or refusal to the Chief Inspector.

**20** Any person considering himself aggrieved Appeals to appellate authority. by an original or appellate order of the Chief Inspector—

(a) refusing to register a boiler or to grant or renew a certificate in respect of a boiler; or

(b) refusing to grant a certificate having validity for the full period applied for; or

(c) refusing to grant a certificate authorising the use of a boiler at the maximum pressure desired; or

(d) withdrawing or revoking a certificate or provisional order; or

(e) reducing the amount of pressure specified in any certificate or the period for which such certificate has been granted; or

- (f) ordering any structural alteration, addition or renewal to be made in or to a boiler or steam-pipe, or refusing sanction to the making of any structural alteration, addition or renewal in or to a boiler.

may, within thirty days of the communication to him of such order, lodge with the Chief Inspector an appeal to an appellate authority to be constituted by the Local Government under this Act.

**21.** An order of an appellate authority under section 20 and, save as otherwise provided in sections 19 and 20, an order of the Chief Inspector or of an Inspector shall be final and shall not be called in question in any Court.

Minor penalties. **22.** Any owner of a boiler who refuses or without reasonable excuse neglects—

- (i) to surrender a provisional order as required by section 9, or
- (ii) to produce a certificate or provisional order when duly called upon to do so under section 15 ; or
- (iii) to take over to the new owner of a boiler a certificate or provisional order as required by section 16,

shall be punishable with fine which may extend to one hundred rupees.

**23.** Any owner of a boiler who, in any such case in which certificate or provisional order is required for the use of the boiler under this Act, uses the boiler either without any such certificate or order being in force or at a higher pressure than that allowed thereby, shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing offence, with an additional fine which may extend to one hundred rupees for each day after the first day in regard to which he is convicted of having persisted in the offence.

Other penalties. **24.** Any person who—

- (a) uses or permits to be used a boiler of which he is the owner and which has been transferred from one province to another without such transfer having been reported as required by section 6, or
- (b) being the owner of a boiler fails to cause the register number allotted to the boiler under this Act to be marked on the boiler as required by sub-section (6) of section 7, or
- (c) makes any structural alteration, addition or renewal in or to a boiler without first obtaining the sanction of the Chief Inspector when so required by section 12, or to a steam-pipe without first informing the Chief Inspector, when so required by section 13, or
- (d) fails to report an accident to a boiler or steam-pipe when so required by section 18, or
- (e) tampers with a safety valve of a boiler so as to render it inoperative at the maximum pressure at which the use of the boiler is authorised under this Act,

shall be punishable with fine which may extend to five hundred rupees,

**25. (1)** Whoever removes, alters, defaces, renders invisible or otherwise tampers with the register number marked on a boiler in accordance with the provisions of this Act or any Act repealed hereby, shall be punishable with fine which may extend to five hundred rupees.

Penalty for tampering with register mark.

**(2)** Whoever fraudulently marks upon a boiler a register number which has not been allotted to it under this Act or any Act repealed hereby, shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

**26.** No prosecution for an offence made punishable by or under this Act shall be instituted except within six months from the date of the commission of the offence, and no such prosecution shall be instituted without the previous sanction of the Chief Inspector.

Limitation and previous sanction for prosecutions.

**27.** No offence made punishable by or under this Act shall be tried by a Court inferior to that of a Presidency Magistrate or a Magistrate of the first class.

Trial of offence.

**28.** The Governor General in Council may, by notification in the Gazette of India, make regulations consistent with this Act for all or any of the following purposes, namely :—

Power to make regulations.

- (a) for laying down the standard conditions in respect of material, design and construction which shall be required for the purpose of enabling the registration and certification of a boiler under this Act ;
- (b) for prescribing the method of determining the maximum pressure at which a boiler may be used ;
- (c) for regulating the registration of boilers, prescribing the fees payable therefor, the drawings, specifications, certificates and particulars to be produced by the owner, the method preparing a boiler for examination, the form of the Inspector's report thereon, the method of marking the register number, and the period within which such number is to be marked on the boiler ;
- (d) for regulating the inspection and examination of boilers and steam pipes, and prescribing forms of certificates therefor ;
- (e) for ensuring the safety of persons working inside a boiler ; and
- (f) for providing for any other matter which is not, in the opinion of the Governor General in Council, a matter of merely local or provincial importance.

**29.** The Local Government may, by notification in the Local official Gazette, make rules consistent with this Act and the regulations made thereunder for all or any of the following purposes, namely :—

Power to make rules.

- (a) for prescribing the qualifications and duties of the Chief Inspector and of Inspectors, for regulating their salary, allowances and conditions of service, for prescribing or constituting



authorities to which they shall respectively be subordinate, and limits of the administrative control to be exercised by such authorities ;

- (b) for regulating the transfer of boilers ;
- (c) for providing for the registration and certification of boilers in accordance with the regulations made under this Act ;
- (d) for requiring boilers to be in charge of persons holding certificates of competency, and for prescribing the conditions on which such certificates may be granted ;
- (e) for prescribing the times within which Inspectors shall be required to examine boilers under section 7 or section 8 ;
- (f) for prescribing the fees payable for the issue of renewed certificates and the method of determining the amount of such fees in each case ;
- (g) for regulating inquiries into accidents ;
- (h) for constituting the appellate authority referred to in section 20, and for determining its powers and procedure ;
- (i) for determining the mode of disposal of fees, costs and penalties, levied under this Act ; and
- (j) generally to provide for any matter which is, in the opinion of the Local Government, a matter of merely local importance in the province ;

Provided that the previous sanction of the Governor General in Council shall be required to the making of any rule under clause (j).

**30.** Any regulation or rule made under section 28 or section 29 may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.

Penalty for breach of rules.

**31. (1)** The power to make regulations and rules conferred by sections 28 and 29 shall be subject to the conditions and rules being made after previous publication.

Publication of regulations and rules.

(2) Regulations and rules so made shall be published in the Gazette of India and local official Gazette, respectively, and, on such publication, shall have effect as if enacted in this Act.

**32.** All fees, costs and penalties levied under this Act shall be recoverable as arrears of land-revenue.

Recovery of fees, etc.

**33.** Save as otherwise expressly provided, this Act shall apply to boilers and steam-pipes belonging to the Crown.

Applicability to the Crown.

**34.** In case of any emergency, the Local Government may, by general or special order in writing, exempt any boiler or steam-pipe from the operation of all or any of the provisions of this Act.

Power to suspend in case of emergency.

**35.** On and from the commencement of this Act, the enactments mentioned in the Schedule shall be repealed to the extent specified in the fourth column thereof :

Provided that any Chief Inspector or Inspector appointed under any Act so repealed shall be deemed to have been appointed under this Act.

### THE SCHEDULE.

(See section 35.)

#### ENACTMENTS REPEALED.

Year	No.	Short title.	Extent of repeal.
		<i>Acts of the Governor General in Council.</i>	
1903	I	The Amending Act, 1903 ...	So much of the First Schedule as relates to the Bengal Steam-boilers and Prime-movers Act, 1879.
1920	XXXVIII	The Devolution Act, 1920 ...	So much of the First Schedule as relates to the Bengal Steam-boilers and Prime-movers Act, 1879.
		<i>Madras Acts.</i>	
1893	III	The Madras Steam-boilers and Prime-movers Act. 1893.	The whole.
1904	I	The Madras Steam-boilers and Prime-movers (Amendment) Act. 1904.	The whole.
1909	VII	The Madras Steam-boilers and Prime-movers (Amendment) Act, 1909.	The whole.

Year	No.	Short title.	Extent of repeal.
		<i>Bombay Acts.</i>	
1917	V	The Bombay Boiler Inspection Act, 1917.	The whole.
1920	X	The Bombay Boiler Inspection (Amendment) Act, 1920.	The whole.
		<i>Bengal Acts.</i>	
1879	III	The Bengal Steam-boilers and Prime-movers Act, 1879.	The whole.
1915	II	The Bengal Steam-boilers and Prime-movers (Amendment) Act, 1915.	The whole.
		<i>United Provinces Act.</i>	
1915	III	The United Provinces Steam-boilers Act, 1915.	The whole.
		<i>Punjab Act.</i>	
1902	II	The Punjab Steam-boilers and Prime-movers Act, 1902.	The whole.
		<i>Central Provinces Acts.</i>	
1907	II	The Central Provinces Boiler Inspection Act, 1907.	The whole.
1919	IV	The Central Provinces Boiler Inspection (Amendment) Act,	The whole.
		<i>Burma Act.</i>	
1910	II	The Burma Steam-boilers and Prime-movers Act, 1910.	The whole.

**ACT NO. VI OF 1923.**

PASSED BY THE INDIAN LEGISLATURE

*Received the assent of the Governor General on the 5th March, 1923***An Act further to amend and to consolidate the law relating to the provision of house accommodation for military officers in cantonments.**

Whereas it is expedient further to amend and to consolidate the law relating to the provision of house accommodation for military officers in cantonments ; It is hereby enacted as follows :—

**CHAPTER I.****PRELIMINARY.**

Short title, extent and commencement.

**1.** (1) This Act may be called the Cantonments (House-Accommodation) Act, 1923.

(2) It extends to the whole of British India (inclusive of British Baluchistan) except Aden.

(3) It shall come into force on the first day of April, 1923, but shall not become operative in any cantonment or part of a cantonment until the issue, or otherwise than in pursuance, of a notification as hereinafter provided by section 3 :

Provided that any notification made under section 3 of the Cantonments (House-Accommodation) Act, 1902,\* which is in force at the commencement of this Act, shall be deemed to be a notification made under section 3 of this Act

Definitions.

**2** (1) In this Act, unless there is anything repugnant in the subject or context,—

- (a) “ Brigade area ” means one of the Brigade areas, whether occupied by a brigade or not, into which India is for military purposes for the time being divided, and includes any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a Brigade area for all or any of the purposes of this Act ;
- (b) “ Cantonment Authority ” means a Cantonment Committee, or, in the case of a cantonment for which such a Committee has not been constituted or has ceased to exist or cannot be convened, the Commanding Officer of the cantonment ;
- (c) “ Command ” means one of the Commands into which India is for military purposes for the time being divided, and includes any area which the Governor General in Council may by notification in the Gazette of India declare to be a Command for all or any of the purposes of this Act ;

- (d) "Commanding Officer of the cantonment" means the officer for the time being in command of the forces in a cantonment;
- (e) "District" means one of the Districts into which India is for military purposes for the time being divided ; it includes a Brigade area which does not form part of any such District and any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a District for all or any of the purposes of this Act ;
- (f) "house" means a house suitable for occupation by a military officer or a military mess, and includes the land and buildings appurtenant to a house ;
- (g) "military officer" means a commissioned or warrant officer of His Majesty's military or air forces on military or air-force duty in a cantonment, and includes a Chaplain on duty with troops in a cantonment, a Cantonment Magistrate and any person in Army departmental employment whom the Officer Commanding the District may at any time, by an order in writing, place on the same footing as a military officer for the purposes of this Act ;
- (h) "owner" includes the person who is receiving, or is entitled to receive, the rent of a house, whether on his own account or on behalf of himself and others or as an agent or trustee, or or who would so receive the rent, or be entitled to receive it, if the house were let to a tenant ; and
- (i) a house is said to be in a state of reasonable repair when—
  - (i) all floors, walls, pillars and arches are sound and all roofs sound and water-tight.
  - (ii) all doors and windows are intact properly painted or oiled, and provided with proper locks or bolts or other secure fastenings, and
  - (iii) all rooms, out-houses and other appurtenant buildings are properly colour-washed or white-washed.

(2) If any question arises whether any land or building is appurtenant to a house, it shall be decided by the Commanding Officer of the cantonment, whose decision thereon shall, subject to revision by the District Magistrate, be final.

## CHAPTER II.

### APPLICATION OF ACT.

Cantonments, or parts of cantonments, in which Act to be operative.

3. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, declare this Act to be operative in any cantonment or part of a cantonment situate in the Province, other than a cantonment situate within the limits of a presidency-town.

(2) Before issuing a notification under sub-section (1) in respect of any cantonment or part of a cantonment, the Local Government shall cause local inquiry to be made with a view to determining whether it is expedient to issue such notification, and what portion (if any) of the area proposed to be included therein should be excluded therefrom.

4. Nothing in this Act shall affect the provisions of any written instrument executed by or on behalf of the East India Company or the Government, unless the other party entitled and the Secretary of State for India in Council consent in writing to be bound by the terms of this Act.

### CHAPTER III

#### APPROPRIATION OF HOUSES.

5. Every house situate in a cantonment or part of a cantonment in respect of which is a notification under sub-section (1) of section 3 is for the time being in force shall be liable to appropriation by the Government on a lease in the manner and subject to the conditions hereinafter provided.

6. (1) Where the Commanding Officer of the cantonment considers that the liability imposed by section 5 should be enforced in respect of any house, he shall serve a notice on the owner of the house requiring him to permit the house to be inspected, measured and surveyed by such person and on such day, not being less than three days from the service of the notice, and at such time as may be specified in the notice.

(2) On the day and at the time so specified, the owner shall be bound to afford all reasonable facilities to the person specified in the notice for the purpose of the inspection, measurement and survey of the house, and, if he refuses or neglects to do so, the said person may, subject to rules made under this Act, enter on the premises and do all such things as may be reasonably necessary for the said purpose.

7. (1) If, on the report of such person as afore-said the Commanding Officer of the cantonment is satisfied that the house is suitable for occupation by a military officer or a military mess, he may, with the previous sanction of the Officer Commanding the District, by notice—

- (a) require the owner to execute a lease of the house to the Government for a specified period which shall not be less than five years ;
- (b) require the existing occupier, if any, to vacate the house ; and
- (c) require the owner to execute within such time as may be specified in the notice such repairs as may, in the opinion of the Commanding Officer of the cantonment, be necessary for the purpose of putting the house into a state of reasonable repair.

(2) Every notice issued under subsection (1) shall state the amount of annual rent proposed as reasonable for the house, calculated on the assumption that the owner will carry out the required repairs, if any. It shall also contain an estimate of the cost of such repairs.

(3) The following shall be deemed to be conditions of every lease executed under sub-section (1), namely :—

(a) that the house shall, on the expiration of the lease, be re-delivered to the owner in a state of reasonable repair, and

(b) that the grounds and the garden, if any, appertaining to the house shall be maintained in the condition in which they are at the time at which the lease is executed.

Procedure to be observed before taking a house on lease.

8. The officer Commanding the District shall not sanction the issue of any notice under section 7 unless he is satisfied—

(i) that the house in respect of which it is proposed to issue the notice is suitable for occupation by a military officer or a military mess, and

(ii) that there is not in the cantonment, or, if this Act is in force in a part only of the cantonment, then in that part thereof, a sufficient number of houses already available and suitable for occupation by military officers or military messes whose accommodation in the cantonment, or a part thereof, as the case may be, is in his opinion necessary or expedient.

9. No house in any cantonment or part of a cantonment in which this

Sanction to be obtained before a house is occupied as a hospital, etc.

Act is operative shall, unless it was so occupied at the date of the issue of the notification declaring this Act or the Cantonments (House-Accommodation) Act, 1902,\* as the case may be, to be operative, be occupied for the purposes of a hospital, school, school hostel, bank, hotel, or shop, or by a railway administration, a company or firm engaged in trade or business or a club, without the previous sanction of the Officer Commanding the District given with the concurrence of the Commissioner or, in a province where there are no Commissioners, of the Collector.

Houses not to be appropriated in certain cases.

10. No notice shall be issued under section 7 if the house—

(a) was, at the date of the issue of the notification declaring this Act or the cantonments (House-Accommodation) Act, 1902,\* as the case may be, to be operative in the cantonment or part of the cantonment, or is, with such sanction as is required by section 9, occupied as a hospital, school, school hostel, bank, hotel or shop, and has been so occupied continuously during the three years immediately preceding the time when the occasion for issuing the notice arises, or

- (b) was, at the date of such a notification as is referred to in clause (a), or is, with such sanction as aforesaid, occupied by a railway administration or by a company or firm engaged in trade or business or by a club, or
- (c) is occupied by the owner, or
- (d) has been appropriated by the Local Government with the concurrence of the Officer Commanding the District, or by the Governor General in Council, for use as a public office or for any other purpose.

**11.** (1) If a house is unoccupied, a notice issued under section 7 may require the owner to give possession of the same to the Commanding Officer of the cantonment within twenty-one days from the service of the notice.

Time to be allowed for giving possession of house.

(2) If a house is occupied, a notice issued under section 7 shall not require its vacation in less than thirty days from the service of the notice.

(3) Where a notice has been issued under section 7 and the house has been vacated in pursuance thereof, the lease shall be deemed to have commenced on the date on which the house was so vacated.

**12.** If the owner fails to give possession of a house to the Commanding Officer of the cantonment in pursuance of a notice issued under section 7, or if the existing occupier fails to vacate a house in pursuance of such a notice, the District Magistrate, by himself or by another person generally or specially authorised by him in this behalf, shall enter on the premises and enforce the surrender of the house.

Surrender of house when to be enforced.

**13.** (1) If a house, in respect of which a notice is issued under section 7, is shown to the satisfaction of the Local Government, or is proved by a decree or order of a Court of competent jurisdiction, to have been erected—

Option in certain cases for owner on whom notice is issued under section 7 to call upon the Government to purchase.

(a) under any conditions, rules, regulations or orders which were in force in Bengal prior to the eighth day of December, 1864, and conferred on the owner the option of offering the house for sale to the military officer applying for its appropriation for his occupation or to the East India Company or the Government, or

(b) under any conditions, rules, regulations or orders which were in force in Bombay prior to the first day of June, 1875, and conferred such an option as is described in clause (a),

then the owner shall have the option of either complying with the notice or offering the house for sale to the Government.

(2) If the owner elects to sell the house, and the Government is willing to purchase it, the question of the amount of the purchase money to be paid shall, in the event of disagreement, be referred to a Committee of Arbitration.



**14. (1)** If a house, in respect of which a notice is issued under section 7, is occupied by a tenant holding in good faith and for valuable consideration under a registered lease for any term exceeding one year, the Secretary of State for India in Council shall, for the term of one year from the date on which the house is vacated in pursuance of the notice, or for the unexpired term of the lease whichever is the shorter, be liable to the owner for the rent fixed by the registered lease instead of for the rent payable under this Act if the rent so fixed exceeds the rent so payable.

(2) If a house, in respect of which a notice is issued under section 7 is occupied by a tenant holding in good faith and for valuable consideration under a registered lease from year to year, the Secretary of State for India in Council shall be liable as aforesaid for the term of six months from the date on which the house is vacated in pursuance of the notice.

(3) Nothing in this section shall be deemed—

(a) to render the said Secretary of State in Council so liable unless an application in writing in this behalf is made by the owner to the Commanding Officer of the cantonment within fifteen days from the service of the notice ; or

(b) to limit or otherwise affect any agreement between the said Secretary of State in Council and the owner.

**15. (1)** If the owner considers that the rent stated in a notice issued under section 7 is not reasonable, he may, within a period of fifteen days from the service of such notice, require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

(2) If the owner does not make such a requisition within the said period, he shall be deemed to have accepted the rent so offered.

**16. (1)** If the owner fails to execute any repairs to a house as required by a notice issued to him under section 7, the Commanding Officer of the cantonment may by notice require the owner to execute the repairs within such period, not being less than fifteen days, as may be specified in the notice.

(2) If the owner objects to any requisition contained in a notice issued under sub-section (1), he may, within fifteen days from the service of the notice, require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

## 17. Where—

Power to have repairs executed and recover cost.

(a) the owner fails to comply with a notice issued under sub-section (1) of section 16 and has not, within fifteen days from the service of such notice, required that the matter be referred to a Committee of Arbitration, or

- (b) a Committee of Arbitration decides that repairs are necessary and the extent to which they are necessary, and specifies the period within which they are to be executed, and the owner fails to execute them within such period, and has not within one month from the date of the decision appealed therefrom to the Civil Court as hereinafter provided or
- (c) the owner fails to execute within such period as may be specified by the Civil Court hearing such appeal such repairs as the Court may decide to be necessary,

the military Works Services or the Public Works Department shall, on the application of the Commanding Officer of the cantonment, cause the repairs specified in the notice or, if the matter has been referred to a Committee of Arbitration, in the decision of the Committee or the Civil Court as the case may be, to be executed at the expense of the Government, and the cost thereof may be deducted from the rent payable to the owner.

18. Every person] on whom devolves, by transfer, by succession or by operation of law, the interest of an owner in any house, or in any part of any house, situate in a cantonment or part of a cantonment in respect of which a notification under sub-section (1) of section 3 is for the time being in force, shall be bound to give notice of the fact to the Commanding Officer of the cantonment within one month from the date of such devolution and if he, without reasonable cause, fails to do so, he shall be punishable with fine which may extend to fifty rupees.

## CHAPTER IV.

### COMMITTEES OF ARBITRATION.

19. In the event of any disagreement as to the amount of the purchase-money of a house to be sold under sub-section (2) of section 13, the Commanding Officer of the cantonment shall forthwith proceed to convene a Committee of Arbitration to determine it.

20. Where a requisition is made to the Commanding Officer of the cantonment by an owner under section 15 or section 16, the Commanding Officer of the cantonment shall forthwith proceed to convene a Committee of Arbitration—

- (a) to determine the amount of the rent to be paid, or
- (b) to determine whether any, and (if any) what, repairs are necessary, the extent to which they are necessary, and the period within which they are to be executed, or
- (c) otherwise to determine the question in dispute.

21. (1) Where a Committee of Arbitration is to be convened, the Commanding Officer of the cantonment shall forthwith cause an order to be published in Station Orders stating the matter to be determined.

(2) The Commanding Officer of the cantonment shall forthwith send a copy of such order to the District Magistrate and to the parties concerned, and, as soon as may be shall by notice call upon the owner concerned to make, and shall himself make, nominations in accordance with the provisions of sections 22 and 23.

Constitution of Committee of Arbitration.

22. (1) Every Committee of Arbitration shall consist of five members, namely :—

- (a) two members nominated by the Commanding Officer of the cantonment, one of whom shall, if possible, be an officer of the Military Works Services or of the Public Works Department ;
- (b) two members nominated by the owner concerned, who shall be persons liable to pay taxes in the cantonment and ordinarily resident therein or in the immediate vicinity thereof ; and
- (c) a chairman who shall be a person not in the service of the Government or the Cantonment Authority and not having any interest in house-property in the cantonment, which has been appropriated or is liable to appropriation under this Act, and who shall be nominated by the Commanding Officer of the cantonment.

(2) If the Commanding Officer of the cantonment or the owner concerned fails without reasonable cause to nominate, within seven days from the date on which the owner has been called upon to make nominations under section 21, any member whom he is entitled to nominate under sub-section (1) or if any member who has been nominated neglects or refuses to act and the person by whom such member was nominated fails to nominate another member in his place within seven days from the date on which he may be called upon to do so by the District Magistrate, the District Magistrate shall forthwith appoint a member or members to fill the vacancy or vacancies.

Members of Committees of Arbitration to be persons who have no direct interest and whose services are immediately available.

23 (1) No person who has a direct interest in the matter under reference or whose services are not immediately available for the purposes of the Committee shall be nominated a member of a Committee of Arbitration.

(2) If, in the opinion of the District Magistrate, any person who has been nominated has a direct interest in the matter under reference, or is otherwise disqualified for nomination, or if the services of any such person are not immediately available as aforesaid, and if the person by whom any such person was nominated fails to nominate another member within seven day from the date on which he may be called upon to do so by the District Magistrate, such failure shall be deemed to constitute a failure to make a nomination within the meaning of section 22.

**24.** (1) When a Committee of Arbitration has been duly constituted, the Commanding Officer of the cantonment shall by notice inform each of the members of the fact, and the Committee shall meet as soon as may be thereafter.

(2) The Committee shall receive and record evidence and shall have power to administer oaths to witnesses, and the District Magistrate, on requisition in writing signed by the Chairman of the Committee, shall issue the necessary processes for the attendance of witnesses and the production of documents required by the Committee, and may enforce the said processes as if they were processes for attendance or production before himself.

**25.** The Chairman of the Committee of Arbitration shall fix the time and place of meeting, and shall have power to adjourn the meeting from time to time as may be necessary.

**26.** In determining the amount of the purchase money to be paid for a house to be sold under sub-section (2) of section 13, the Committee of Arbitration shall estimate the market-value of the house at the date on which the notice was served on the owner under section 7.

**27.** In determining the amount of rent to be paid for a house, the Committee of Arbitration shall estimate the market-value of the house at the date on which the notice was served on the owner under section 7, and shall fix the annual rent at such percentage on that value as is for the time being recoverable by way of annual rent on the market-value of similar houses in the cantonment :

Provided that due allowance shall be made in respect of the cost to the lessee of maintaining the house in a state of reasonable repair during the period of the lease.

**28.** (1) The decision of every Committee of Arbitration shall be in accordance with the majority of votes taken at a meeting at which the chairman and at least three of the other members are present.

• (2) If there is not a majority of votes in favour of any proposed decision, the opinion of the chairman shall prevail.

(3) Save as provided in this Act, the decision of a Committee of Arbitration shall be final and shall not be questioned in any Court.

## CHAPTER V.

### APPEALS.

**29.** (1) If the Commanding Officer of the cantonment, or the owner of a house in respect of which any matter has been referred to a Committee of Arbitration is dissatisfied with any decision of the Committee of Arbitration, he may, Appeal to Civil Court.

within one month from the date of such decision, appeal to the principal Civil Court having ordinary original civil jurisdiction in the cantonment and the decision of such Court shall be final.

(2) A Civil Court hearing an appeal under this section shall, so far as may be, follow the same procedure and have the same powers as follows and has when hearing an appeal under the Code of Civil Procedure, 1908.\*

**31. (1)** The owner or any tenant of a house in respect of which notice has been issued under section 7 may appeal to the Officer Commanding the District or, if that Officer is the Commanding Officer of the cantonment, to the General Officer Commanding-in-Chief, the Command, against the decision of the Commanding Officer of the cantonment to appropriate the house.

(2) No such appeal shall be admitted unless made within a period of twenty-one days from the service of the notice aforesaid, and such period shall be computed in accordance with the provisions of the Indian Limitation Act, 1908,† with respect to the computation of periods of limitation thereunder.

**31. (1)** Every petition of appeal under section 30 shall be in writing and accompanied by a copy of the notice appealed against.

(2) Any such petition may be presented to the Commanding Officer of the cantonment, and that officer shall be bound to forward it to the authority empowered by section 30 to hear the appeal, and may attach thereto any report which he may desire to make in explanation of the notice appealed against.

(3) If any such petition is presented direct to the Officer Commanding the District and an immediate order on the petition is not necessary, the Officer Commanding the District may refer the petition to the Commanding Officer of the cantonment for report.

**32.** The decision on any such appeal of the Officer Commanding the District or of the General Officer Commanding-in-Chief, the Command, as the case may be, shall be final, and shall not be questioned in any Court otherwise than on the ground that the house is situated in a cantonment, or part of a cantonment in which this Act is not operative :

Provided that no appeal shall be decided until the appellant has been heard or has had a reasonable opportunity of being heard in person or through a legal practitioner.

**33.** Where an appeal has been presented under section 30 within the period prescribed by sub-section (2) of that section, all action on the notice shall, on the application of the appellant, be held in abeyance pending the decision of the appeal.

\* V of 1908.

† IX of 1908.

## CHAPTER VI.

## SUPPLEMENTAL PROVISIONS.

**34.** Every notice or requisition prescribed by this Act shall be in writing, signed by the person by whom it is given or made or by his duly appointed agent, and may be served by post on the person to whom it is addressed, or, in the case of an owner who does not reside in or near the cantonment, on his agent appointed under the Cantonments Act, 1910,\* or any rule made thereunder.

**35.** (1) The Governor General in Council may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) regulate the procedure of Committees of Arbitration ; and

(b) define the powers of entry, inspection, measurement or survey which may be exercised in carrying out the purposes and objects of this Act or of any rule made hereunder.

**36.** (1) The power to make rules under section 35 shall be subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the Gazette of India and in such other manner (if any) as the Governor General in Council may direct.

(2) Any rule under section 35 may be general for all cantonments or parts of cantonments in British India in which this Act is for the time being operative, or may be special for any of such cantonments or parts as the Governor General in Council may direct.

(3) A copy of the rules under section 35 for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Authority.

(4) In making any rule under clause (b) of sub-section (2) of section 35, the Governor General in Council may direct that whoever obstructs any person, not being a public servant within the meaning of section 21 of the Indian Penal Code, in making any entry, inspection, measurement or survey, shall be punishable with fine which may extend to fifty rupees, and, in the case of a continuing offence, with fine which in addition to such fine as aforesaid, may extend to five rupees for every day after the first during which such offence continues.

**37.** No Judge or Magistrate shall be deemed, within the meaning of section 556 of the Code of Criminal Procedure, 1898,† to be a party to, or personally interested in, any prosecution for an offence constituted by or under this Act merely because he is a member

\* XV of 1910.

† V of 1898.

of the Cantonment Committee or has ordered or approved the prosecution.

Protection to persons acting under Act.

38. No suit or other legal proceeding shall lie against any person for anything in good faith done, or intended to be done, under this Act or in pursuance of any lawful notice or order issued under this Act.

39. On and from the commencement of this Act, the enactments mentioned in the Schedule shall be repealed to the extent specified in the fourth column thereof.

Repeals.

### THE SCHEDULE.

(SEE SECTION 39.)

*Enactments repealed.*

Year.	No.	Short title.	Extent of repeal.
1902	II	The Cantonments (House-Accommodation) Act, 1909.	The whole.
1909	V	The Amending (Army) Act, 1909.	So much as has not been repealed.
1914	IV	The Decentralization Act, 1914.	So much of the Schedule as relates to the Cantonments (House-Accommodation) Act, 1902.

**ACT NO. VII OF 1923.**

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 8th March, 1923.***An Act to give effect in British India to the Treaty for the Limitation of Naval Armament.**

Whereas it is expedient to give effect in British India to the Treaty for the Limitation of Naval Armament signed at Washington on behalf of His Majesty on the sixth day of February, 1922 ; It is hereby enacted as follows :—

Short title, extent, and commencement.

1. (1) This Act may be called the Indian Naval Armament Act, 1923.

(2) It extends to the whole of British India, and applies also to all subjects and servants of His Majesty in other parts of India.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “competent Court” means the High Court or such other Court having unlimited original civil jurisdiction as the Governor General in Council may declare to be a competent Court for the purposes of this Act ;

(b) “ship” means any boat, vessel, battery or craft, whether wholly or partly constructed, which is intended to float or is capable of floating, on water, and includes all equipment belonging to any ship ; and

(c) “the Treaty” means those Articles of the Treaty” for the Limitation of Naval Armament signed at Washington on behalf of His Majesty on the sixth day of February, 1922, which are set out in the Schedule.

Restriction on building or equipping vessels of war.

3. No person shall, except under and in accordance with the conditions of licence granted under this Act,—

(a) build any vessel of war, or alter, arm or equip any ship so as to adapt her for use as a vessel of war ; or

(b) despatch or deliver, or allow to be despatched or delivered, from any place in British India any ship which has been, either wholly or partly, built, altered, armed or equipped as a vessel of war in any part of His Majesty's Dominions or in a State in India otherwise than under and in a accordance with any law for the time being in force in that part or State.

Licences.

4. (1) A licence under this Act for any of the purposes specified in section 3 may be granted by the Local Government, and shall not be refused unless it appears to



the Local Government that such refusal is necessary for the purpose of securing the observance of the obligations imposed by the Treaty ; and, where a licence is granted subject to conditions, the conditions shall be such only as the Local Government may think necessary for the purpose aforesaid.

(2) An application for a licence under this section shall be in such form and shall be accompanied by such designs and particulars as the Local Government may, by general or special order, require.

Offences against the Act. 5. (1) If any person contravenes any of the provisions of section 3, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

(2) Where an offence punishable under subsection (1) has been committed by a company or corporation, every director and manager of such company or corporation shall be punishable there-under unless he proves that the act constituting the offence took place without his knowledge and consent.

(3) Nothing contained in section 517 or section 518 or section 520 of the Code of Criminal Procedure, 1898\*, shall be deemed to authorise the destruction or confiscation under the order of any Criminal Court of any ship which is liable to forfeiture under this Act or of any part of such ship.

Liability of ships to forfeiture. 6. Any ship which has been, either wholly or partly, built, altered, armed, or equipped as a vessel of war in British India in contravention of section 3, or in any other part of His Majesty's Dominions or any State in India in contravention of any like provision of law in force in that part or State, shall, if found in British India, be liable to forfeiture under this Act.

Seizure, detention and search of ships. 7. (1) Where a ship is liable to forfeiture under this Act, —

- (a) any Presidency Magistrate or Magistrate of the first class, or
- (b) any commissioned officer on full pay in the military, naval or air service of His Majesty, or any gazetted officer of the Royal Indian Marine Service or
- (c) any officer of customs or police-officer not below such rank as may be designated in this behalf by the Governor General in Council,

may seize such ship and detain it, and, if the ship is found at sea within the territorial waters of British India, may bring it to any convenient port in British India.

(2) Any officer taking any action under subsection (1) shall forthwith report the same through his official superiors to the Local Government.

(3) The Local Government shall, within thirty days of the seizure, either cause the ship to be released or make or cause to be made, in the

manner hereinafter provided, an application for the forfeiture thereof, and may make such orders for the temporary disposal of the ship as it thinks suitable.

8. (1) An application for the forfeiture of a ship under this Act may be made by, or under authority from, the Local Government to any competent Court within the local limits of whose jurisdiction the ship is for the time being.

(2) On receipt of any such application, the Court shall cause notice thereof and of the date fixed for the hearing of the application to be served upon all persons appearing to it to have an interest in the ship, and may give such directions for the temporary disposal of the ship as it thinks fit.

(3) For the purpose of disposing of an application under this section, the Court shall have the same powers and follow, as nearly as may be, the same procedure as it respectively has and follows for the purpose of the trial of suits under the Code of Civil Procedure, 1908\*, and any order made by the Court under this section shall be deemed to be a decree, and the provisions of the said Code in regard to the execution of decrees shall, as far as they are applicable, apply accordingly.

(4) Where the Courts is satisfied that the ship is liable to forfeiture under this Act, it shall pass an order forfeiting the ship to His Majesty.

Provided that, where any person having an interest in the ship proves to the satisfaction of the Court that he has not abetted, or connived at, or by his negligence facilitated, in any way, a contravention of section 3 in respect of the ship, and such ship has not been built as a vessel of war, it may pass such other order as it thinks fit in respect of the ship or if it be sold, of the sale proceeds thereof :

Provided, further, that in no case shall any ship which has been altered armed or equipped as a vessel of war be released until it has been restored, to the satisfaction of the Local Government, to such condition as not to render it liable to forfeiture under this Act.

(5) The Local Government or any person aggrieved by any order of a Court, other than a High Court, under this section may, within three months of the date of such order, appeal to the High Court.

9. Where a ship has, been forfeited to His Majesty under section 8, it may be disposed of in such manner as the Local Government, subject to the control of the Governor General in Council, directs :

Provided that, where the ship is sold under this section, due regard shall be had to the obligations imposed by the Treaty.

10. If, in any trial, appeal or other proceeding under the foregoing provisions of this Act any question arises as to whether a ship is a vessel of war, or whether any alteration, arming or equipping of a ship is such a

to adapt it for use as a vessel of war, the question shall be referred to and determined by the Governor General in Council, whose decision shall be final and shall not be questioned in any Court.

**II. (1)** Where a ship which has been seized or detained under section 7 or section 8 and has not been released by competent authority under this Act proceeds to sea, the master of the ship shall be punishable with fine which may extend to one thousand rupees, and the owner and any person who sends the ship to sea shall be likewise so punishable unless such owner or person proves that the offence was committed without his knowledge and consent.

(2) Where any ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty any officer empowered by this Act to seize and detain the ship, the owner and master shall further each be liable, on the order of the Court trying an offence punishable under sub-section (1), to pay all the expenses of and incidental to such officer being taken to sea and shall further be punishable with fine which may extend to one hundred rupees for every day until such officer returns or until such time as would enable him after leaving the ship to return to the port from which he was taken.

(3) Any expenses ordered to be paid under sub-section (2) may be recovered in the manner provided in the Code of Criminal Procedure, 1898,\* for the recovery of a fine.

**12. (1)** Any person empowered by this Act to seize and detain any ship may, at any reasonable time by day or night, enter any dockyard, shipyard or other place and make inquiries respecting any ship which he has reason to believe is liable to forfeiture under this Act, and may search such ship with a view to ascertaining whether the provisions of this Act have been or are being duly observed in respect thereof, and every person in charge of or employed in such place shall on request be bound to give the person so empowered all reasonable facilities for such entry and search and for making such inquiries.

(2) The provisions of sections 101, 102 and 103 of the Code of Criminal Procedure, 1898,\* shall apply in the case of all searches made under this section.

**13.** No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall proceed to the trial of any offence punishable under this Act, and no Court shall proceed to the trial of any such offence except on complaint made by, or under authority from, the Local Government.

**14.** No prosecution, suit or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

Indemnity.

## THE SCHEDULE.

(See section 2.)

ARTICLES OF TREATY FOR THE LIMITATION OF  
NAVAL ARMAMENT.

## ARTICLE V.

No capital ship exceeding 35,000 tons (35,560 metric tons) standard displacement shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers.

## ARTICLE VI.

No Capital ship of any of the Contracting Powers shall carry a gun with a calibre in excess of 16 inches (406 millimetres).

## ARTICLE IX.

No aircraft carrier exceeding 27,000 tons (27,432 metric tons) standard displacement shall be acquired by, or constructed by, for or within the jurisdiction of, any of the Contracting Powers.

\* \* \* \*

## ARTICLE X.

No aircraft carrier of any of the Contracting Powers shall carry a gun with a calibre in excess of 8 inches (203 millimetres). Without prejudice to the provisions of Article IX, if the armament carried includes guns exceeding 6 inches (152 millimetres) in calibre the total number of guns carried, except anti-aircraft guns and guns not exceeding 5 inches (127 millimetres), shall not exceed ten. If alternatively the armament contains no guns exceeding 6 inches (152 millimetres) in calibre, the number of guns is not limited. In either case the number of anti-aircraft guns not exceeding 5 inches (127 millimetres) is not limited.

## ARTICLE XI-

No vessel of war exceeding 10,000 tons (10,160 metric tons) standard displacement, other than a capital ship or aircraft carrier, shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers. Vessels not specifically built as fighting ships nor taken in time of peace under Government control for fighting purposes, which are employed on fleet duties or as troop transports or in some other way for the purpose of assisting in the prosecution of hostilities otherwise than as fighting ships, shall not be within the limitations of this article.

## ARTICLE XII.

No vessel of war of any of the Contracting Powers, hereafter laid down, other than a capital ship, shall carry a gun with a calibre in excess of 8 inches (203 millimetres).

## ARTICLE XIV.

No preparations shall be made in merchant ships in time of peace for the installation of warlike armaments for the purpose of converting such ships into vessels of war, other than the necessary stiffening of decks for the mounting of guns not exceeding 6-inch (152 millimetres) calibre.

## ARTICLE XV.

No vessel of war constructed within the jurisdiction of any of the Contracting Powers for a non-Contracting Power shall exceed the limitations as to displacement prescribed by the present Treaty for vessels of similar type which may be constructed by or for any of the Contracting Powers, provided, however, that the displacement for aircraft carriers constructed for a non-Contracting Power shall in no case exceed 27,000 tons (27432 metric tons) standard displacement.

## ARTICLE XVI.

If the construction of any vessel of war for a non-Contracting Power is undertaken within the jurisdiction of any of the Contracting Powers, such power shall promptly inform the other Contracting Powers of the date of the signing of the contract and the date on which the keel of the ship is laid ; and shall also communicate to them the particulars relating to the ship prescribed in Chapter II, Part 3, Section 1 (b), (4) and (5).

## ARTICLE XVIII.

Each of the Contracting Powers undertakes not to dispose by gift, sale or any mode of transfer of any vessel of war in such a manner that such vessel may become a vessel of war in the navy of any foreign Power.

## CHAPTER II.—PART 3.—SECTION I.

- (b) Each of the Contracting Powers shall communicate promptly to each of the other Contracting Powers the following information :—
- (4) The standard displacement in tons and metric tons of each new ship to be laid down, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draught at standard displacement.
- (5) The date of completion of each new ship and its standard displacement in tons and metric tons, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draught at standard displacement, at time of completion.

## PART 4.—DEFINITIONS.

For the purposes of the present Treaty, the following expressions are to be understood in the sense defined in this Part.

*Capital Ship.*

A capital ship, in the case of ships hereafter built, is defined as a vessel of war, not an aircraft carrier, whose displacement exceeds 10,000 tons (10, 160 metric tons) standard displacement, or which carries a gun with a calibre exceeding 8 inches (203 millimetres),

*Aircraft Carrier.*

An aircraft carrier is defined as a vessel of war with a displacement in excess of 10,000 tons (10, 160 metric tons) standard displacement designed for the specific and exclusive purpose of carrying aircraft. It must be so constructed that aircraft can be launched therefrom and landed thereon, and not designed and constructed for carrying a more powerful armament than that allowed to it under Article IX or Article X, as the case may be.

*Standard Displacement.*

The standard displacement of a ship is the displacement of the ship complete, fully manned, engined, and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board.

The word "ton" in the present Treaty, except in the expression "metric tons," shall be understood to mean the ton of 2,240 pounds (1,016 kilo).

Vessels now completed shall retain their present ratings of displacement tonnage in accordance with their national system of measurement. However, a Power expressing displacement in metric tons shall be considered for the application of the present Treaty as owning only the equivalent displacement in tons of 2,240 pounds.

A vessel completed hereafter shall be rated at its displacement tonnage when in the standard condition defined herein.

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## ACT NO. VIII OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General of the India on the  
5th March, 1923.*

**An Act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.**

Whereas it is expedient to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident : It is hereby enacted as follows :—

## CHAPTER I.

## PRELIMINARY-

Short title, extent and commencement.

1. (1) This Act maybe called the Workmen's Compensation Act, 1923.

(2) It extends to the whole of British India, including British Baluchistan and the Southal Parganas.

(3) It shall come into force on the first day of July, 1924.

Definitions.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

- (a) "adult" and "minor" mean respectively a person who is not and a person who is under the age of fifteen years ;
- (b) "Commissioner" means a Commissioner for Workmen's Compensation appointed under section 20 ;
- (c) "compensation " means compensation as provided for by this Act;
- (d) " dependent" means any of the following relatives of a deceased workman, namely, a wife, husband, parent, minor son, unmarried daughter, married daughter who is a minor, minor brother or unmarried sister, and includes the minor children of a deceased son of the workman and, where no parent of the workman is alive, a paternal grand-parent ;
- (e) "employer" includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him ;
- (f) "managing agent" means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer ;

- (g) "partial disablement" means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time ; provided that every injury specified in Schedule I shall be deemed to result in permanent partial disablement ;
- (h) "prescribed" means prescribed by rules made under this Act ;
- (i) "qualified medical practitioner" means any person registered under the Medical Act, 1858\* or any Act amending the same, or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, or, in any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the local official Gazette, to be a qualified medical practitioner for the purposes of this Act ;
- (j) "registered ship" means any sea-going ship registered under the Bombay Coasting Vessels Act, 1838,† or the Indian Registration of Ships Act, 1841,‡ or the Indian Registration of Ships Act (1841) Amendment Act, 1850,§ or any home trade ship so registered of a registered tonnage of not less than three hundred tons, or any inland steam-vessel as defined in section 2 of the Inland Steam Vessels Act, 1917,|| of a registered tonnage of not less than one hundred tons ;
- (k) "seaman" means any person forming part of the crew of any registered ship, but does not include the master of any such ship ;
- (l) "total disablement" means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement : provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries specified in Schedule I where the aggregate percentage of the loss of earning capacity as specified in that Schedule against those injuries, amounts to one hundred percent ;
- (m) "wages" includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment ;

\* 21 &amp; 22 Vict. c. 90.

† XIX of 1838.

‡ X of 1841.

§ XI of 1850.

|| I of 1917.



(n) "workman" means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is—

(i) a railway servant as defined in section 3 of the Indian Railways Act, 1890,\* not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or

(ii) employed, either by way of manual labour or on monthly wages not exceeding three hundred rupees, in any such capacity as is specified in Schedule II,

whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing ; but does not include any person working in the capacity of a member of His Majesty's naval, military or air forces or of the Royal Indian Marine Service ; and any reference to a workman who has been injured shall where the workman is dead, include a reference to his dependants or any of them.

(2) The exercise and performance of the powers and duties of a local authority or of any department of the Government shall, for the purposes of this Act, unless a contrary intention appears be deemed to be the trade or business of such authority or department,

(3) The Governor General in Council after giving by notification in the Gazette of India not less than three months' notice of his intention so to do may, by a like notification, direct that the provisions of this Act shall apply in the case of any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employers trade or business) who, is employed by way of manual labour or on monthly wages not exceeding three hundred rupees in any occupation declared by such notification to be a hazardous occupation, or that the said provisions shall apply in the case of any specified class of such persons or in the case if any such person or class to whom any specified injury is caused ; and any person in whose case the said provisions are so made applicable shall be deemed to be a workman within the meaning of this Act.

## CHAPTER II.

### WORKMEN'S COMPENSATIONS.

Employer's liability for compensation. 3. (1) If personal injury is caused to a workman by accident arising out of and in the course of his employment. his employer shall be liable to pay compensation in accordance with the provisions of this Chapter :

Provided that the employer shall not be so liable—

(a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding ten days ;

\* IX of 1890.

(b) in respect of any injury to a workman resulting from an accident which is directly attributable to—

(i) the workman having been at the time thereof under the influence of drink or drugs, or

(ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or

(iii) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen ; or

(c) except in the case of death or permanent total disablement, in respect of any workman employed in the construction, repair or demolition of a building or bridge.

(2) If a workman employed in any employment involving the handling of wool, hair, bristles, hides or skins contracts the disease of anthrax, or if a workman whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment,

*Explanation*—For the purposes of this subsection a period of service shall be deemed to be continuous which has not included a period of service under any other employer.

(3) The Governor General in Council, after giving, by notification in the Gazette of India, not less than three months, notice of his intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of the employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and the provisions of subsection (2) shall thereupon apply as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(4) Save as provided by sub-sections. (2) and (3), no compensation shall be payable to a workman in respect of any disease unless the disease is solely and directly attributable to a specific injury by accident arising out of and in the course of his employment.

(5) Nothing herein contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person ; and no suit for damages shall be maintainable by a workman in any Court of law in respect of any injury—

(a) if he has instituted a claim to compensation in respect of the injury before a Commissioner ; or

- (b) if an agreement has been come to between the workman and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act.

Amount of compensation. 4. (1) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely :—

A. Where death results from the injury—

- (i) in the case of an adult, a sum equal to thirty months' wages or two thousand five hundred rupees, whichever is less, and
- (ii) in the case of a minor, two hundred rupees ;

B Where permanent total disablement results from the injury—

- (i) in the case of an adult, a sum equal to forty-two months' wages or three thousand five hundred rupees, whichever is less, and
- (ii) in the case of a minor, a sum equal to eighty-four months' wages or three thousand five hundred rupees, whichever is less ;

C. Where permanent partial disablement results from the injury—

- (i) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and
- (ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury ;

*Explanation.*—Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

D. Where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day after the expiry of a waiting period of ten days from the date of the disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter,—

- (i) in the case of an adult, of fifteen rupees or a sum equal to one-fourth of his monthly wages, whichever is less, and
- (ii) in the case of a minor, of a sum equal to one-third or, after he has attained the age of fifteen years, to one-half of his monthly wages, but not exceeding in any case fifteen rupees ;

Provided that there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first-half-monthly payment, as the case

may be, and no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.

(2) On, the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

Method of calculating wages. 5. For the purposes of section 4 the monthly wages of a workman shall be calculated as follows, namely :—

(a) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period ;

(b) in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period :

Provided that the sum arrived at by a calculation, under clause (a) or clause (b) shall be increased or decreased, as the case may be, to the amount specified in the second column of Schedule IV against the head specified in the first column thereof within the limits of which such sum is included.

*Explanation*—A period of service shall, for the purposes of this section, be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

Review. 6. (1) Any half-monthly payment payable under this Act, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner on the application either of the employer or of the workman accompanied by the certificate of a qualified medical practitioner that there has been a change in the condition of the workman or subject to rules made under this Act, on application made without such certificate.

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Act, be continued, increased, decreased or ended, or, if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the workman is entitled less any amount which he has already received by way of half-monthly payments.

7. Any right to receive half-monthly payments may, by agreement<sup>a</sup> between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner, be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the Commissioner, as the case may be.

8. (1) Compensation payable in respect of a workman whose injury has resulted in death shall be deposited with the Commissioner, and any sum so deposited shall be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one such dependant, and the sum so allotted to any dependant shall be paid to him or, if he is a person under any legal disability be invested, applied or otherwise dealt with for his benefit during such disability in such manner as the Commissioner thinks fit.

(2) Any other compensation payable under this Act may be deposited with the Commissioner and, when so deposited, shall be paid by the Commissioner to the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any amount deposited with him under sub-section (1) or subsection (2),

(4) On the deposit of any money under subsection (1), the Commissioner may deduct therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding fifty rupees, and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied, after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

(5) Where a half-monthly payment is payable under this Act to a person under any legal disability, the Commissioner may, of his own motion or on application made to him in this behalf, order that the half-monthly payment be paid during the disability to any dependant of the workman or to any other person whom he thinks best fitted to provide for the welfare of the workman.

(6) Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case ;

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by dependant of any sum already paid to him.

9. Save as provided by this Act, no lump sum or half-monthly payment payable under this Act shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law, nor shall any claim be set off against the same.

Compensation not to be assigned, attached or charged.

10. (1) No proceedings for the recovery of compensations shall be maintainable before a Commissioner unless notice of the accident has been given, in the manner herein after provided, as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been instituted within six months of the occurrence of the accident or, in case of death, within six months from the date of death :

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease :

Provided, further, that the Commissioner may admit and devide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been instituted, in due time as provided in this sub section, if he is satisfied that the failure so to give the notice or institute the claim, as the case may be, was due to sufficient cause.

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon any one or several employers, or upon any person directly responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed.

(3) The notice may be served by delivering the same at, or sending it by registered post addresssed to, the residence or any office or place of business of the person on whom it is to be served.

11. (1) Where a workman has given notice of an accident, he shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a qualified medical practioner, submit himself for such examination, and any workman who is in receipt of a half-monthly payment under this Act shall if so required, submit himself for such examination from time to time :

Medical examination.

Provided that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance

with rules made under this Act, or at more frequent intervals than may be prescribed.

(2) If a workman, on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If a workman, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed his right to compensation shall be suspended until he returns and offers himself for such examination.

(4) Where a workman, whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself for medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman.

(5) Where under sub-section (2) or sub-section (3) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause D of sub-section (1) of section 4, the waiting period shall be increased by the period during which the suspension continues.

(6) Where injured workman has refused to be attended by a qualified medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then if it is thereafter proved that the workman has not been regularly attended by a qualified medical practitioner and that such refusal, failure or disregard was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had been regularly attended by a qualified medical practitioner, and compensation if any, shall be payable accordingly.

**12. (1)** Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him ; and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the

employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

(2) Where principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

**13** Where a workman has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 12 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

Remedies of employer against stranger.

**14. (1)** Where any employer has entered into a contract with any insurers in respect of any liability under this Act, to any workman, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the workman and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

Insolvency of employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the insolvency proceedings or liquidation.

(3) Where in any case such as is referred to in sub-section (1) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the workman :

Provided that the provisions of this sub-section shall not apply in any case in which the workman fails to give notice to the insurers of the



happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.

(4) There shall be deemed to be included among the debts which under section 49 of the Presidency-towns Insolvency Act, 1909,\* or under section 61 of the Provincial Insolvency Act, 1920,† or under section 230 of the Indian Companies Act, 1913,‡ are in the distribution of the property of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation the liability wherefor accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and those Acts shall have effect accordingly.

(5) Where the compensation is a half monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 7, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

(6) The provisions of sub-section (4) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (3) but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (1).

(7) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

15. This Act shall apply in the case of workman who are masters of Special provisions relating to masters and seamen. registered ships or seamen subject to the following modifications, namely :—

(1) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship be served on the master of the ship as if he were the employer, but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any seaman to give any notice of the accident.

(2) In the case of the death of a master or seaman the claim for compensation shall be made within six months after the news of the death has been received by the claimant or where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been so lost.

(3) Where an injured master or seaman is discharged or left behind in any part of His Majesty's dominions or in a foreign country, any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the Governor General in Council or any Local Government shall, in any proceedings for enforcing the claim, be admissible in evidence—

\* III of 1909.

† V of 1920.

‡ VII of 1913.

- (a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made ;
- (b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness ; and
- (c) if the deposition was made in the course of a criminal proceeding on proof that the deposition was made in the presence of the person accused ;

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

(4) In the case of the death of a master or seaman leaving no dependants, the Commissioner shall, if the owner of the ship is under any law in force for the time being in British India relating to merchant shipping liable to pay the expenses of burial of the master or seaman, return to the employer the full amount of the compensation deposited under sub-section (1) of section 8 without making the deduction referred to in sub-section (4) of that section.

(5) No monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being in British India relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

16. The Governor General in Council may, by notification in the Gazette of India, direct that every person employing workmen, or that any specified class of such persons, shall send at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of such compensation ; together with such other particulars as to the compensation as the Governor General in Council may direct.

17. Any contract or agreement whether made before or after the commencement of this Act, whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Act.

18. Where any question arises as to the age of a person injured by accident arising out of and in the course of his employment in a factory, a certificate granted in respect of such person under section 7 or section 8 of the Indian Factories Act, 1911,\* before the occurrence of the injury shall be conclusive proof of the age of such person.

## CHAPTER III.

## COMMISSIONERS.

**19.** (1) If any question arises in any proceedings under this Act as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by the Commissioner.

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act.

**20.** (1) The Local Government may, by notification in the local official Gazette, appoint any person to be a Commissioner for Workmen's Compensation for such local area as may be specified in the notification.

(2) Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

(3) Every Commissioner shall be deemed to be a public servant within the meaning of the Indian Penal Code.\*

**21.** (1) Where any matter is under this Act to be done by or before a Commissioner, the same shall, subject to the provisions of this Act and to any rules made hereunder, be done by or before the Commissioner for the local area in which the accident took place which resulted in the injury :

Provided that, where the workman is the master of a registered ship or a seaman, any such matter may be done by or before the Commissioner for the local area in which the owner or agent of the ship resides or carries on business.

(2) If a Commissioner is satisfied by any party to any proceedings under this Act pending before him that such matter can be more conveniently dealt with by any other Commissioner, whether in the same province or not, he may, subject to rules made under this Act, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings :

Provided that no matter other than a matter relating to the actual payment to a workman or the distribution among dependants of a lump sum shall be transferred for disposal under this sub-section to a Com-

missioner in the same province save with the previous sanction of the Local Government or to a Commissioner in another province save with the previous sanction of the Governor General in Council, unless all the parties to the proceedings agree to the transfer.

(3) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Act, inquire therein and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(4) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub-section (2), the Commissioner by whom it was referred shall decide the matter referred in conformity with such report.

**22. (1)** No application for the settlement of any matter by a Commissioner shall be made unless and until some question has arisen between the parties in connection there-with which they have been unable to settle by agreement.

(2) Where any such question has arisen, the application may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely :—

(a) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims;

(b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission ;

(c) the names and addresses of the parties ; and

(d) a concise statement of the matters on which agreement has and on those on which agreement has not been come to.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

**23.** The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908,\* for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects.

**24** Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or other person authorised in writing by such person.

**25.** The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record :

Method of recording evidence.   
 Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record :

Provided, further, that the evidence of any medical witness shall be taken down as nearly as may be word for word,

**26.** All costs incidental to any proceedings before a Commissioner shall, subject to rules made under this Act, be in the discretion of the Commissioner.

**27.** A Commissioner may, if he thinks fit, submit any question of law for the decision of the High Court and, if he does so, shall decide the question in conformity with such decision.

**28.** (1) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a person under a legal disability or to a dependant, a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner :

Registration of agreements.   
 Provided that—

(a) to such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned ;

(b) where workman seeks to record a memorandum of agreement between his employer and himself for the payment of compensation and the employer proves that the workman has, in fact, returned to work and is earning the same wages as he did before the accident and objects to the recording of such memorandum, the memorandum shall only be recorded, if at all, on such terms as the Commissioner thinks just in the circumstances ;

(c) the Commissioner may at any time rectify the register ;

(d) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable to a person under any legal disability or to any dependant, ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement or may

make such order, including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act notwithstanding anything contained in the Indian Contract Act, 1872,\* or in any other law for the time being in force.

29. Where a memorandum of any agreement, the registration of which is required by section 28, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the amount of compensation which he is liable to pay under the provisions of this Act, and notwithstanding anything contained in the proviso of sub-section (1) of section 4, shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workman by way of compensation whether under the agreement or otherwise.

Appeals.

30. (1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely :—

- (a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum ;
- (b) an order refusing to allow redemption of a half-monthly payment ;
- (c) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant ;
- (d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12 ; or
- (e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions :

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (b), unless the amount in dispute in the appeal is not less than three hundred rupees :

Provided, further, that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties.

(2) The period of limitation for an appeal under this section shall be sixty days.

(3) The provisions of section 5 of the Indian Limitation Act, 1908,\* shall be applicable to appeals under this section.

**31.** The Commissioner may recover as an arrear of land-revenue any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890.†

## CHAPTER IV.

### RULES.

Power of the Governor General in Council to make rules. **32. (1)** The Governor General in Council may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6 when not accompanied by medical certificate ;
- (b) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under sub-section (1) of section 11 ;
- (c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Act and by the parties in such cases ;
- (d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases ;
- (e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of money so invested from one Commissioner to another ;
- (f) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance ;
- (g) for prescribing the form and manner in which memoranda of agreements shall be presented and registered ;
- (h) for the withholding by Commissioners, whether in whole or in part, of half-monthly payments pending decision on applications for review of the same ; and
- (i) for any other matter which is not, in the opinion of the Governor General in Council, a matter of merely local or provincial importance.

Power of Local Government to make rules.

33. The Local Government may, subject to the control of the Governor General in Council, make rules to provide for all or any of the following matters, namely :—

- (a) for regulating the scales of costs which may be allowed in proceedings under this Act ;
- (b) for prescribing and determining the amount of the fees payable in respect of any proceeding before a Commissioner under this Act ;
- (c) for the maintenance by Commissioners of registers and records of proceedings before them ; and
- (d) generally for carrying out the provisions of this Act in respect of any matter which is, in the opinion of the Local Government, a matter of merely local importance in the province.

34. (1) The power to make rules conferred by sections 32 and 33 shall be subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897,\* as that after which a draft of rules proposed to be made under section 32 or section 33 will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(3) Rules so made shall be published in the Gazette of India or the local official Gazette, as the case may be, and on such publication, shall have effect as if enacted in this Act.

#### SCHEDULE I.

[ See sections 2 (1) and 4 ]

*List of injuries deemed to result in permanent partial disablement.*

Injury.	Percentage of loss of earning capacity.
Loss of right arm above or at the elbow ...	70
Loss of left arm above or at the elbow ...	60
Loss of right arm below the elbow ...	60
Loss of leg at or above the knee ...	60
Loss of left arm below the elbow ...	50
Loss of leg below the knee ...	50
Permanent total loss of hearing ...	50
Loss of one eye ...	30
Loss of thumb ...	25
Loss of all toes of one foot ...	20
Loss of one phalanx of thumb ...	10
Loss of index finger ...	10
Loss of great toe ...	10
Loss of any finger other than index finger ...	5

*Note.*—Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

\* X of 1897.



## SCHEDULE II.

[ See section 2 (1) (n). ]

*Life of persons who, subject to the provisions of section 2 (1) (n), are included in the definition of workman.*

The following persons are workmen within the meaning of section 2 (1) (n) and subject to the provisions of that section, that is to say, any person who is—

- (i) employed in connection with the service of a tramway as defined in section 3 of the Indian Tramways Act, 1886\* ; or
- (ii) employed within the meaning of clause (2) of section 2 of the Indian Factories Act, 1911,† in any place which is a factory within the meaning of sub clause (a) of clause (3) of that section ; or
- (iii) employed within the meaning of clause (d) of section 3 of the Indian Mines Act, 1923,‡ in any mine which is subject to the operation of that Act ; or
- (iv) employed as the master of a registered ship or as a seaman ; or
- (v) employed for the purpose of loading, unloading or coaling any ship at any pier, jetty, landing place, wharf, quay, dock, warehouse or shed, on, in or at which steam, water or other mechanical power or electrical power is used ; or
- (vi) employed in the construction, repair or demolition of—
  - (a) a building which is designed to be, is, or has been more than one storey in height above ground level, or
  - (b) a building which is used, has been used, or is designed to be used, for industrial or commercial purposes and is, has been or is designed to be, not less than twenty feet in height measured from ground level to apex of the roof, or
  - (c) a bridge which is, has been or is designed to be more than fifty feet in length ; or
- (vii) employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any over-head electric cable ; or
- (viii) employed in the construction, inspection or upkeep of any underground sewer ; or
- (ix) employed in the service of any fire brigade.

— — — — —

\* XI of 1886.

† XII of 1911.

‡ IV of 1923.

## SCHEDULE III.

(See section 3.)

*List of occupational diseases.*

Occupational disease.	Employment.
Lead poisoning or its sequelae.	Any process involving the use of lead or its preparations or compounds.
Phosphorus poisoning or its sequelae.	Any process involving the use of phosphorus or its preparations or compounds.

## SCHEDULE IV.

(See section 5.)

*Table of assumed wages.*

Limits.							Assumed wages.			
Where the sum arrived at by a calculation under clause (a) or clause (b) of section 5 is—										
	Rs.	A.	P.		Rs.	A.	P.	Rs.	A.	P.
less than	9	0	0		...			8	0	0
not less than	9	0	0	but less than	11	0	0	10	0	0
„	11	0	0	ditto	13	0	0	12	0	0
„	13	0	0	ditto	17	8	0	15	4	0
„	17	8	0	ditto	22	8	0	20	0	0
„	22	8	0	ditto	27	8	0	25	0	0
„	27	8	0	ditto	32	8	0	30	0	0
„	32	8	0	ditto	37	8	0	35	0	0
„	37	8	0	ditto	42	8	0	40	0	0
„	42	8	0	ditto	50	0	0	46	4	0
„	50	0	0	ditto	60	0	0	55	0	0
„	60	0	0	ditto	70	0	0	65	0	0
„	70	0	0	ditto	80	0	0	75	0	0
„	80	0	0	...	...			83	5	4

**ACT No. IX OF 1923.**

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 5th March 1923.***An Act further to amend the Indian Factories Act, 1911.**

WHEREAS it is expedient further to amend the Indian Factories Act, 1911\* ; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Indian Factories (Amendment) Act, 1923.

Addition of new sub-section to section 22, Act XII of 1911. **2.** To section 22 of the Indian Factories Act, 1911\* (hereinafter referred to as the said Act), the following sub-section shall be added namely :—

“(2) where, in accordance with the provision of sub-section (1), any person is employed on a Sunday in consequence of his having had a holiday on one of the three days preceding that Sunday, that Sunday shall, for the purpose of calculating the weekly hours of work of such person, be deemed to be included in the preceding week.”

Amendment of section 37, Act XII of 1911. **3.** In section 37 of the said Act, for clause (i) of sub section (2) the following clause shall be substituted, namely :—

“(j) the parts of the machinery and electrical fittings to be kept fenced in accordance with section 18, sub-section (1), clause (c), and the provisions to be made for the protection from danger of persons employed in attending to the machinery, electrical fittings or boilers.”

Amendment of section 41, Act XII of 1911. **4.** In clause (g) of section 41 of the said Act, for the figures and letter “19B” the figures and letter “19A” shall be substituted.

Amendment of section 50, Act XII of 1911. **5.** Sub-section (2) of section 50 of the said Act shall be omitted.

**ACT No. X OF 1923.**

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 5th March 1923.***An Act to consolidate the law relating to the Government Paper Currency.**

WHEREAS it is expedient to consolidate the law relating to the Government Paper Currency ; It is hereby enacted as follows ;—

*Preliminary.*

Short title and extent.      1. (1) This Act may be called the Indian Paper Currency Act, 1923.

2 It extends to the whole of British India, inclusive of British Baluchistan and the Santhal Parganas.

Definition.      2. In this Act, "universal currency note" means—

(a) a note of the denominational value of one rupee, two and a half rupees, five rupees, ten rupees, fifty rupees, or one hundred rupees, or

(b) a note of any other denominational value which the Governor General in Council may, by notification in the Gazette of India, specify in this behalf.

*The Currency Department.*

3. There shall continue to be a Department of the public service, to be called the Currency Department, whose function shall be the issue of promissory notes of the Government of India, to be called currency notes, payable to bearer on demand, and of such denominational values as the Governor General in Council may direct.

4. At the head of the Department there shall be an officer to be called the Controller of the Currency (hereinafter referred to as the Controller.)

Power to establish circles of issue, offices of issue, and currency agencies.      5. The Governor General in Council may, by notification in the Gazette of India,—

(a) establish districts, to be called circles of issue, seven of which circles shall include the towns of Calcutta, Madras, Bombay, Rangoon, Lahore, Cawnpore and Karachi respectively ;

(b) appoint in each circle some one town to be the place of issue of currency notes, as hereinafter provided ;

(c) establish in each such town an office or offices of issue ; and

(d) establish in any town situate in any circle an office, to be called a currency agency.

6. For each circle of issue there shall be an officer in charge to be called the Deputy Controller of the Currency, and for each Currency Agency an officer to be called the Currency Agent.

Sabordination of Officers.

**7. For the purposes of this Act—**

- (a) Deputy Controllers of the Currency shall be subordinate to the Controller ; and
- (b) the Currency Agent at any town shall be subordinate to the Deputy Controller of the Currency for the circle of issue in which that town is situate.

Appointment of Officers.

**8. All officers under this Act shall be appointed by the Governor General in Council.**

*Supply and Issue of Currency Notes.*

**9. (1)** the Controller shall provide currency notes of the denominational values prescribed under this Act, and shall supply the Deputy Controllers with such notes as they need for the purposes of this Act.

Controller and Deputy Controllers to provide and distribute currency notes.

(2) The Deputy Controllers shall supply the Currency Agents subordinate to them, respectively, with such notes as those Agents need for the purposes of this Act.

(3) Every such note, other than a universal currency note, shall bear upon it the name of the town from which it is issued.

**10.** The name of the Controller or one of the Deputy Controllers, or of some other person authorised by the Controller or by one of the Deputy Controllers, to sign currency notes, shall be subscribed to every such note, and may be impressed thereon by machinery, and, when so impressed, shall be deemed to be a valid signature.

Signatures to currency notes,

**11.** The officers in charge of circles of issue shall, in their respective circles, on the demand of any person, issue, from the office or offices of issue established in their respective circles, currency notes of the denominational values prescribed under this Act, in exchange for the amount thereof—

Issue of currency notes for silver or gold coin by officers in charge of circles.

(a) in rupees or silver half-rupees or in gold coin which is legal tender under the Indian Coinage Act, 1906,\* or

(b) in rupees made and declared to be a legal tender under the provisions of the Native Coinage Act, 1876.†

**12.** Any Currency Agent to whom currency notes have been supplied under section 9 may, if he thinks fit, on the demand of any person, issue from his agency any such notes in exchange for the amount thereof in any coin specified in section 11.

Issue of currency notes for silver or gold coin by Currency Agents.

\* III of 1906.

† IX of 1876.

**13.** The officers in charge of circles of issue shall, on the requisition of the Controller, issue to any Government Treasury currency notes in exchange for gold coin which is not legal tender under the Indian Coinage Act, 1906,\* or for gold bullion at the rate of one rupee for 11·30016 grains troy of fine gold.

*Currency Notes where legal tender and where payable.*

**14.** A universal currency note shall be a legal tender at any place in British India, and

any other currency note shall be legal tender at any place within the circle from which the note was issued,

for the amount expressed in the note in payment or on account of—

(a) any revenue or other claim, to the amount of one rupee or upwards, due to the Government of India, and

(b) any sum of one rupee or upwards, due by the Government of India or by any body corporate or other person in British India ;

Provided that no currency note shall be deemed to be a legal tender by the Government of India at any office of issue.

**15.** A currency note shall be payable at the following offices of issue namely :—

(a) a universal currency note at any office of issue ;

(b) a currency note other than a universal currency note at any office of issue in the town from which it was issued :

Provided that any such note issued before the 18th day of February, 1910, shall also be payable,—

(i) in the case of a note issued from the office at Cawnpore or Lahore, at any office of issue in Calcutta, and

(ii) in the case of a note issued from the office at Karchi, at any office of issue in Bombay.

**16.** For the purposes of section 14 and 15, currency notes issued from any currency agency shall be deemed to have been issued from the town appointed under section 5 to be the place of issue in the circle of issue in which that agency is established.

**17.** Where an office of issue is closed, the Governor General in Council shall, by notification in the Gazette of India, direct that, with effect from the date of the closing of such office, all currency notes issued therefrom shall, for the purposes of sections 14 and 15, be deemed to have been issued from such other office as may be specified in such notification.

*Reserve.*

**18** (1) The provisions contained in this section shall not come into operation until such day hereinafter referred to as the appointed day as the Governor General in Council may direct in this behalf.

(2) A Reserve shall be maintained for the satisfaction and discharge of the currency notes in circulation and all such notes shall be deemed to have been issued on the credit of the revenues of India as well as on that of the Reserve.

(3) The Reserve shall consist of two parts namely :—

- (a) the metallic Reserve, and
- (b) the securities Reserve.

(4) The metallic Reserve shall consist of the total amount represented by the sovereigns, half-sovereigns, rupees, silver half-rupees, and gold and silver bullion for the time being held on that account by the Secretary of State for India in Council and by the Governor General in Council :

Provided that no amount of gold coin and bullion held by the Secretary of State in the United Kingdom in excess of fifty millions of rupees in value reckoned at the rate hereinafter provided for shall be included in the metallic Reserve.

(5) The securities Reserve shall consist of the securities which are for the time being held on that account by the Secretary of State for India in Council and on behalf of the Governor General in Council :

Provided that—

(a) no securities held by the Secretary of State for India in Council, other than securities of the United Kingdom the date of maturity of which is not more than one year from the date of their purchase, shall be included in the securities Reserve ; and

(b) the securities held on behalf of the Governor General in Council shall be securities of the Government of India and shall not exceed in amount two hundred millions of rupees, of which an amount of not more than one hundred and twenty millions of rupees may be securities created by the Government of India and issued to the Controller (such securities being hereinafter referred to as created securities).

(6) For the purposes of this section the expression "currency notes circulation" means the whole amount of currency notes at any time in circulation :

Provided that currency notes which have not been presented, for payment in the case of notes of the denominational value of fifty or one hundred rupees, within forty years, and in the case of notes of any denominational value exceeding one hundred rupees, within one hundred years, from the first day of April following the date of their issue, shall be deemed to be not in circulation :

Provided, further, that all such notes shall be deemed to have been issued on the credit of the revenues of India and shall, if presented for payment, be paid from such revenues,

(7) Save as hereinafter provided in section 20, the amount of currency notes in circulation at any time shall not exceed the amount of the metallic Reserve together with the amount of the securities Reserve :

Provided that it shall not be lawful for the Governor General in Council to direct the issue of currency notes, if or to the extent that such issue would have the effect of raising the amount of notes in circulation to an amount in excess of twice the amount for the time being of the metallic Reserve.

(8) For the purpose of determining—

- (a) the amount of the metallic Reserve, gold bullion shall be reckoned at the rate of one rupee for 11.30016 grains troy of fine gold, and silver bullion at the price in rupees at which it was purchased,
- (b) the amount of the securities Reserve, purchased securities shall be reckoned at the price at which they were purchased and created securities at the market price of similar securities on the date of their issue.

(9) The securities of the Government of India in the Reserve shall be held by the Controller and the Master of the Mint at Calcutta or of such other Mint as the Governor General in Council may direct in this behalf, in trust for the Secretary of State for India in Council.

19. (1) As soon as conveniently may be after the relation of the amount of the currency notes in circulation to the amount of the Reserve has been brought into conformity with sub-sections (2) to (8) of section 18 and the metallic Reserve is not less than half the amount of currency notes in circulation, the Governor General in Council shall fix the appointed day.

(2) The provisions contained in this section shall be in force until the appointed day, but shall, as from that day, be deemed to be repealed.

(3) Save as hereinafter provided in section 20, the whole amount of currency notes at any time in circulation shall not exceed the total amount represented by the sovereigns, half-sovereigns, rupees, silver half-rupees and gold bullion, and the sum expended in the purchase of silver bullion and securities, which are for the time being held by the Secretary of State for India in Council and by the Governor General in Council as a reserve to provide for the satisfaction and discharge of the said notes, and the said notes shall be deemed to have been issued on the credit of the revenues of India as well as on the security of the said coin, bullion and securities :

Provided that, for the purposes of this sub-section, currency notes which have not been presented for payment, in the case of notes of the denominational value of fifty or one hundred rupees within forty years, and, in the case of notes of any denominational value exceeding one hundred rupees, within one hundred years, from the first day of April following the date of their issue, shall be deemed not to be in circulation :

Provided, further, that all notes which are declared under the first proviso to this sub-section not to be in circulation shall be deemed to



have been issued on the credit of the revenues of India and shall, if subsequently presented for payment, be paid from such revenues.

(4) The securities mentioned in sub-section (3) shall be securities of the United Kingdom of Great Britain and Ireland or of the Government of India, or securities issued by the Secretary of State for India in Council under the authority of Act of Parliament and charged on the revenues of India, and the value of them at the price at which they are purchased shall not exceed eight hundred and fifty millions of rupees.

(5) If the Secretary of State for India in Council consents to hold in gold coin or bullion or in silver bullion or in securities of the kinds mentioned in sub-section (4), the equivalent Issue of currency notes for certain gold coin or gold or silver bullion or securities held by Secretary of State. in value to notes issued in India as a reserve to secure the payment of such notes, the Governor General in Council may from time to time direct that currency notes shall be issued to an amount equal to the value of the coin, bullion and securities so held by the Secretary of State for India in Council.

(6) Notwithstanding anything to the contrary in this Act, any securities created by the Government of India and issued to the Controller shall, for the purposes of this Act, be deemed to be securities purchased by the Governor General in Council, and the market price, on the day such securities were so issued, of similar securities shall be deemed to be the price at which the securities so created were purchased, and all references to securities so purchased, wherever occurring in this Act, shall be deemed also to refer to securities so created, and all references to sums expended in such purchases or to prices paid therefor shall be deemed, in the case of securities so created, to refer to such prices, and this Act shall be construed accordingly.

(7) As long as the value of securities created by the Government of India and issued to the Controller and deemed in accordance with the provisions of the foregoing sub-section to be securities purchased by the Governor General in Council exceeds one hundred and twenty millions of rupees, all interest derived from the securities in the Reserve shall, with effect from the first day of April, 1923, be applied in reduction of such excess holding of securities and the Auditor-General shall in every year grant a certificate of the amount of such interest and shall also certify whether or not it has been so applied. For the purposes of this sub-section securities so created and issued shall be deemed to carry interest at the same rate as other similar securities.

(8) The securities purchased by the Governor General in Council shall be securities of the Government of India, and shall be held by the Controller and the Master of the Mint at Calcutta or of such other Mint as the Governor General in Council may direct in this behalf, in trust for the Secretary of State for India in Council.

20. Notwithstanding anything to the contrary in section 18 or section 19, the Governor General in Council may authorise the Controller to issue currency notes to an amount in all not exceeding fifty millions of rupees against bills of exchange which will mature within ninety days from the date of such issue and satisfy such Power to issue currency notes against bills of exchange.

other conditions as the Governor General in Council may, by general or special order prescribe Currency notes so issued shall be in addition to those against which the Reserve is held and shall be deemed to have been issued on the credit of such bills and of the revenues of India and shall, when presented, be paid from such revenues.

**21.** Subject to the provisions of sections 18 and 19, the Governor General in Council may at any time, if he thinks it expedient, convert any of the coin or bullion for the time being held by him as a part of the reserve into coin of any of the kinds mentioned in section 11 or into gold or silver bullion.

Power to dispose of coin and bullion in reserve.

**22.** Notwithstanding anything to the contrary in this Act, any coin or bullion which is held by or on behalf of the Secretary of State for India in Council in the United Kingdom or under the control of the Government of any part of his Majesty's Dominions for the purpose of coinage for, or transmission to, the Governor General in Council and any coin or bullion which is in course of transmission from the Secretary of state for India in Council or the Government of any part of His Majesty's Dominions to the Governor General in Council and any coin or bullion which is in the course of transmission from the Governor General in Council to the Secretary of State for India in Council or the Government of any part of His Majesty's Dominions shall be deemed, during the period such coin or bullion is so held or is so in course of transmission, to be part of the reserve referred to in section 18 and 19.

Coin or bullion not in India when deemed to be part of the reserve.

**23. (1)** The Controller may, at any time, when ordered so to do by the Governor General in Council, sell and dispose of any of the securities held under sub-section (9) of section 18 or sub-section (8) of section 19.

Power to sell and replace Indian securities.

**(2)** For the purpose of effecting such sales, the master of the Mint at Calcutta or of such other Mint as aforesaid shall, on a request in writing from the Controller, at all times sign and endorse the securities, and the Controller, if so directed by the Governor General in Council, may purchase securities of the Government of India to replace such sales.

**24.** An account showing the amount of the interest according on the securities held as part of the reserve under this Act and the expenses and charges incidental thereto, shall be rendered annually by the Controller to the Governor General in Council, and published annually in the Gazette of India.

Account of interest on securities.

*Private Bills payable to Bearer on demand.*

**25.** No person in British India shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sum or sums of money on the bills, hundis or notes payable to bearer on demand, of any such person :

Prohibition of issue of private bills or notes payable to bearer on demand.

provided that cheques or drafts, payable to bearer on demand or otherwise, may be drawn on bankers, shroffs or agents by their customers or constituents, in respect of deposits of money in the hands of those bankers shroffs or agents and held by them at the credit and disposal of the persons drawing such cheques or drafts.

**26. (1)** Any person contravening the provisions of section 25 shall, on conviction by a Presidency Magistrate or a Magistrate of the first class, be punishable with a fine equal to the amount of the bill, hundi, note or engagement in respect whereof the offence is committed.

Penalty for issuing such bills or notes and institution of prosecutions.

(2) Every prosecution under this section shall be instituted by the officer in charge of the circle of issue in which the bill, hundi, note or engagement is drawn, accepted, made or issued.

*Supplementary Provisions.*

**27.** An abstract of the accounts of the Currency Department, showing—

Abstract of accounts.

- (a) the whole amount of currency notes in circulation ;
- (b) the amount of coin and bullion reserved, distinguishing gold from silver, and showing separately the amount of coin or bullion held by or on behalf of the Secretary of State for India in Council, or in transit from or to India, or in the custody of the Mint Master during coinage ;
- (c) the nominal value of, and the price paid for, the securities held as part of the reserve, showing separately those held by the Secretary of State for India in Council and those held in India under sub-section (9) of section 18 or sub-section (8) of section 19 ; and
- (d) the amount of currency notes issued against bills of exchange under the provisions of section 20 ;

shall be made up four times in each month by the Controller, and published, as soon as may be, in the Gazette of India.

**28.** Notwithstanding anything contained in any enactment or rule of law to the contrary, no person shall as of right be entitled to recover from the Government of India the value of any lost, mutilated or imperfect currency note :

Provision as to lost, mutilated and imperfect notes.

Provided that the Governor General in Council may by rule prescribe the circumstances, conditions and limitations under which the value of such notes may be refunded as of grace.

**29. (1)** The Governor General in Council may make rules to carry out the purposes and objects of this Act.

Power to make rules,

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) fix the denominational values for which currency notes shall be issued ;
- (b) provide for the alteration of the limits of any of the circles of issue ;

- (c) declare the places at which currency notes shall be issued ; and  
 (d) prescribe the circumstances in, and the conditions and limitations subject to, which the value of lost, mutilated or imperfect currency notes may be refunded at the office of issue.

(3) Every such rule shall be published in the Gazette of India, and, on such publication, shall have effect as if enacted in this Act.

Repeals. **30.** The enactments mentioned in the Schedule, are hereby repealed to the extent specified in the last column thereof :

Provided that all securities purchased and notes issued under the Indian Paper Currency Act, 1910,\* and all securities and notes which, under section 30 of that Act, are to be deemed to have been purchased or issued thereunder shall, if undisposed of or in circulation at the commencement of this Act, be deemed to have been respectively purchased and issued under this Act.

Provided further, that all currency notes, which, under the said section 30, are to be deemed to have been issued from the office of issue in the town of Cawnpore, shall still be deemed to have been issued from that office.

— — — — —  
**THE SCHEDULE.**  
 (ENACTMENTS REPEALED.)  
 [See section 30.]

Year.	No.	Short title.	Extent of repeal.
1910	II	The Indian Paper Currency Act, 1910.	So much as has not been repealed.
1911	VII	The Indian Paper Currency (Amendment) Act, 1911.	The whole.
1914	X	The Repealing and Amending Act, 1914	So much of the Second Schedule as relates to Paper Currency Act, 1910.
1917	XIX	The Indian Paper Currency (Amendment) Act, 1917.	So much as has not been repealed.
1920	XLV	The Indian Paper Currency (Amendment) Act, 1920.	The whole.
1922	XII	The Indian Finance Act 1922.	Section 6.

**ACT NO. XI OF 1923.**

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 5th March 1923.***An Act to amend certain enactments and to repeal certain other enactments.**

WHEREAS it is expedient that certain amendments should be made in the enactments specified in the First Schedule ;

And whereas it is also expedient that certain enactments specified in the Second Schedule which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by express specific repeal, should be expressly and specifically repealed ;

It is hereby enacted as follows :—

- |                                  |   |
|----------------------------------|---|
| Short Title.                     | 1. This Act may be called the Repealing and Amending Act, 1923.   |
| Amendment of certain enactments. | 2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.              |
| Repeal of certain enactments.    | 3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof.                              |
| Savings.                         | 4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to ; |
- and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;
- nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed
- nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.
-

## THE FIRST SCHEDULE.

## AMENDMENTS.

(See section 2.)

Year.	Number.	Short title.	Amendments.
1867	XXV	The Press and Registration of Books Act, 1867.	<p>In section 17, for the words "the last foregoing section" the word and figures "section 16" shall be substituted.</p> <p>In section 21, before the words "the Local Government" the words "the Governor General in Council or " and before the words "the local gazette" the words "the Gazette of India or" shall be inserted and after the words "local Gazette" the words "as the case may be" shall be inserted.</p>
1869	IV	The Indian Divorce Act, 1869.	<p>(1) In section 3, clause (1), for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted.</p> <p>(2) In section 3, clause (2), for the word "Divisional" the word "District" shall be substituted.</p>
1870	VII	The Court-fees Act, 1870.	In Article 14, Schedule I, for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted.
1877	I	The Specific Relief Act, 1877.	In section 45, for the words "and Bombay" the words "Bombay and Rangoon" shall be substituted.

THE FIRST SCHEDULE—*contd.*

## AMENDMENTS.

(See section 2.)

Year.	Number.	Short title.	Amendments.
1890	IX	The Indian Railways Act, 1890.	In sub-section (5) of, section 59, for the words and figures "a person enrolled as a volunteer under the Indian Volunteers Act, 1869" the words and figures "a member of the Indian Territorial Force or of the Auxiliary Force, India" shall be substituted.
1891	XVI	The Colonial Courts of Admiralty (India) Act, 1891.	In section 2, clause (4), for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted.
1897	X	The General Clauses Act, 1897.	After section 30, the following section shall be inserted, namely :— "30A. In this Act the expression "Act of the Governor General in Council" wherever it occurs, except in section 5, shall be deemed to include an Act made by the Governor General under section 67B of the Government of India Act."
1898	V	The Code of Criminal Procedure, 1898.	In section 4, sub-section (1), clause (j) the word "and" where it occurs between the words "Patna" and "Lahore" shall be omitted and for the words "the Chief Court of Lower Burma" the words "and Rangoon" shall be substituted.

THE FIRST SCHEDULE—*contd.*

## AMENDMENTS.

(See Section 2.)

Year.	Number	Short title.	Amendments.
1899	II	The Indian Stamp Act, 1899	In Section 57, sub-section (1), clause (d), for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted.
1899	IX	The Indian Arbitration, 1899.	In section 23, sub-section (1), for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted.
1908	IX	The Indian Limitation Act, 1908.	<p>In the second column of the First Schedule—</p> <ol style="list-style-type: none"> <li>(1) For each of the entries in Articles 4 and 5 the entry "six months" shall be substituted.</li> <li>(2) For each of the entries in Articles 7 to 31 the entry "one year" shall be substituted.</li> <li>(3) For each of the entries in Articles 33 to 36 the entry "Two years" shall be substituted.</li> <li>(4) For each of the entries in Articles 38 to 115 and for the entry in Article 181 the entry "Three years" shall be substituted.</li> <li>(5) For each of the entries in Articles 117 to 120 the entry "Six years" shall be substituted.</li> <li>(6) For each of the entries in Articles 122 to 144 the entry "Twelve years" shall be substituted.</li> </ol>



THE FIRST SCHEDULE—*contd.*

## AMENDMENTS.

*(See Section 2.)*

Year.	Number.	Short title.	Amendments.
			<p>(7) For each of the entries in Articles 146 and 146A the entry "Thirty years" shall be substituted.</p> <p>(8) For each of the entries in Articles 148 and 149 the entry "Sixty years" shall be substituted.</p> <p>(9) For each of the entries in Articles 153, 154 and Articles 164 to 170 the entry "Thirty days" shall be substituted.</p> <p>(10) For the entry in Article 159 the entry "Ten days" shall be substituted.</p> <p>(11) For the entry in Article 161 the entry "Fifteen days" shall be substituted.</p> <p>(12) For the entry in Article 172 the entry "Sixty days" shall be substituted.</p> <p>(13) For each of the entries in Articles 174 and 177 the entry "Ninety days" shall be substituted.</p>
1911	II	The Indian Patents and Designs Act, 1911.	In sub-section (1) of section 78A, after the words "United Kingdom" where they first occur, the words "or his legal representative or assignee" shall be inserted.
1912	IV	The Indian Lunacy Act, 1912.	In sections 3 (4), 35 (2) and 91 (1) (c), for the words "confinement" the word "detention" shall be substituted.

THE FIRST SCHEDULE—*contd.*

## AMENDMENTS.

(See Section 2.)

Year.	Number.	Short title.	Amendments.
			In section 30 and 35 (2), for the words "confined" wherever it occurs, the words "detained" shall be substituted.
1917	I	The Indian Steam Vessels Act, 1917.	In section 22A (1), for the words "as to such Government" the words "as such Government" shall be substituted.
1918	XVI	The Provisional Collection of Taxes Act, 1918.	<p>In section 2, for the words "a Member of the Executive Council of the Governor General" the words "any officer of Government acting on behalf of the Governor General in Council," shall be substituted.</p> <p>After section 3 the following section shall be inserted, namely :—</p> <p>"4. A declaration such as is Application referred to in section 2 may be specified made in respect clause of a of any provision Bill. of a Bill of the nature described in that section which provides for the imposition or variation of any tax in the nature of customs or excise duties, and where such declaration has been made in respect of any such provision this Act shall have effect as if references to the Bill were references to such provisions."</p>

THE FIRST SCHEDULE—*concl'd.*

## AMENDMENTS.

*(See section 2.)*

Year.	Number.	Short title.	Amendments.
1920	XXVI	The Indian Limitation and Code of Civil Procedure (Amendment) Act, 1920.	For section 2 the following section shall be substituted, namely :— “2. In the Third Division of the First Schedule to the Indian Limitation Act, 1908, in Articles 176, 177 and 179, For each of the entries in the second column the entry “ninety days” shall be substituted, and in Article 178, for the entry in the second column the entry “six months” shall be substituted.
1921	IX	The Enemy Missions Act, 1921.	In the Schedule, for the word “Budla” in the fourth column of the entries relating to the Assam Roman Catholic Mission Trust the words “Budla Beta” shall be substituted.
1922	II	The Indian Factories (Amendment) Act, 1922.	In section 25 (b), for the figures and letter “19B” the figures and letter “19A” shall be substituted.

*Regulation by the Governor General in Council.*

1874	VII	The Arakan Hills Civil Justice Regulation, 1874.	In section 76, for the words “Chief Court of British Burma” the words “High Court of Judicature at Rangoon” shall be substituted and for the words “Chief Court” where they else-where occur, the words “High Court” shall be substituted.
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## THE SECOND SCHEDULE.

## REPEALS.

(See section 3.)

Year.	No.	Short title.	Repeals.
<i>Acts of the Governor General in Council.</i>			
1866	XXVII	The Indian Trustees Acts, 1866.	In the definition of High Court in section 2, the words and also the Chief Court of Lower Burma."
1866	XXVIII	The Trustees' and Mortgages' Powers Act, 1866.	In the definition of High Court in section 1, the words "and includes the Chief Court of Lower Burma "
1870	VII	The Court-fees Act, 1870.	In Schedule I, Article 15.
1879	XVIII	The Legal Practitioners Act, 1879.	In section 41, sub-section (4) the words "except in the case of the Chief Court of Lower Burma."
1890	IX	The Indian Railways Act, 1890.	In section 26, sub-section (3), the words "or in the case of the Chief Court of Lower Burma the Chief Judge."
1898	V	The Code of Criminal Procedure, 1898.	(1) Clause (d) of section 4, sub-section (1). (2) In section 266, the words "the Chief Court of Lower Burma and." (3) In section 364, sub-section (1), the words "or the Chief Court of Lower Burma." (4) In section 365, the words "and the Chief Court of Burma,"
1900	VI	The Lower Burma Courts Act, 1900.	The whole Act,
1908	V	The Code of Civil Procedure, 1908	(1) In section 122, the words "and the Chief Court of Lower Burma." (2) In section 123, sub-section (1), the words "and of the Chief Court." (3) In section 123, sub-section (2), the words "(in Burma.)"

THE SECOND SCHEDULE—*concl'd.*

## REPEALS,

*(See section 3.)*

Year.	No.	Short title.	Repeals.
1910	XIV	The Indian Emigration (Amendment) Act, 1910.	The whole Act.
1914	IV	The Decentralisation Act, 1914.	So much of Part I of the Schedule as relates to the India Emigration Act, 1908.
1914	X	The repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Emigration Act, 1908.
1918	XIX	The Indian Defence Force (Further Amendment) Act, 1918.	The whole Act.
1919	XXIV	The Indian Companies Restriction Repealing Act, 1919.	The whole Act.
1920	XXXVIII	The Devolution Act, 1920.	So much of Part I of the First Schedule as relates to the Indian Emigration Act, 1908.
1921	VI	The Indian Finance Act 1921.	The whole Act.
1922	XXIII	The Indian Transfer of Ships Restriction (Repealing) Act, 1922.	The whole Act.
<i>Regulations by the Governor General in Council.</i>			
1892	V	The Upper Burma Criminal Justice Regulation, 1896.	In the Schedule, section I and sub-section (1) to (4) of section II and section X.
1896	I	The Upper Burma Civil Courts Regulation, 1896.	The whole Regulation.

**ACT NO. XII OF 1923.**

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 16th March 1923.*

**An Act further to amend the Code of Criminal Procedure, 1898, the European Vagrancy Act, 1874, the Indian Limitation Act, 1908, and the Central Provinces Courts Act, 1917, in order to provide for the removal of certain existing discriminations between European British subjects and Indians in criminal trials and proceedings.**

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898,\* the European Vagrancy Act, 1874,† the Indian Limitation Act, 1908,‡ and the Central Provinces Courts Act, 1917,§ in order to provide for the removal of certain existing discriminations between European British subjects and Indians in criminal trials and proceedings ; It is hereby enacted as follows :—

Short title and com- **I. (1) This Act may be called the Criminal**  
mencement **Law Amendment Act, 1923.**

(2) It shall come into force\* on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

**2. (1) In sub-section (1) of section 4 of the Code of Criminal Procedure**  
Amendment of section 1898\* (hereinafter referred to as the said Code),  
4, Code of Criminal for clause, (i) the following clause shall be sub-  
Procedure, 1898. stituted, namely :—

European British subject. “(i) “European British subject” means—

(i) any subject of His Majesty of European descent in the male line born, naturalised or domiciled in the British Islands or any Colony, or

(ii) any subjects of His Majesty who is the child or grand-child of any such person by legitimate descent.”

(2) In clause (j) of the same sub-section, after the word “Rangoon” the words “and the Courts of the Judicial Commissioners of the Central Provinces, Oudh and Sind” shall be inserted.

**3. In section 22 of the said Code the words and brackets “(other than**  
Amendment of section 22, the presidency-towns)” shall be omitted, and for  
Code of Criminal Proce- “European British subjects” the words “per-  
cure, 1898. sons resident within British India and not being  
the subjects of any foreign State” shall be  
substituted.

Repeal of sections 23 and  
24, Code of Criminal Proce-  
dure, 1898.

**4. Sections 23 and 24 of the said Code shall**  
be omitted.

Amendment of section  
29, Code of Criminal Pro-  
cedure, 1898.

**5. In sub-section (1) of section 29 of the**  
said Code, for the words and figures “provisions  
of section 447” the words “other provisions of  
this Code” shall be substituted.

\* V of 1908. † IX of 1874. ‡ IX of 1908. § C. P. Act I of 1917.

Insertion of new section 29A in the Code of Criminal Procedure, 1898.

6. After section 29 of the said Code the following section shall be inserted, namely :—

Trial of European British subjects by second and third class Magistrates.

“29A. No Magistrate of the second or third class shall inquire into or try any offence which is punishable otherwise than with fine not exceeding fifty rupees where the accused is an European British subject who claims to be tried as such.”

Insertion of new section 34A in the Code of Criminal Procedure, 1898.

7. After section 34 of the said Code the following section shall be inserted, namely :—

Sentences which Courts and Magistrates may pass upon European British subjects.

“34A. Notwithstanding anything contained in sections 31, 32 and 34—

- (a) no Court of Session shall pass on any European British subject any sentence other than a sentence of death, penal servitude or imprisonment with or without fine, or of fine, and
- (b) on District Magistrate or other Magistrate of the first class shall pass on any European British subject any sentence other than imprisonment which may extend to two years, or fine which may extend to one thousand rupees, or both.”

Repeal of section 111, Code of Criminal Procedure, 1898.

8. Section 111 of the said Code shall be omitted.

Amendment of section 206, Code of Criminal Procedure, 1898.

9. In sub-section (1) of section 206 of the said Code, the words and figures “Subject to the provision of section 443” shall be omitted.

Repeal of section 214, Code of Criminal Procedure, 1898.

10. Section 214 of the said Code shall be omitted.

Amendment of section 215, Code of Criminal Procedure, 1898.

11. In section 215 of the said Code, the words and figures “or section 214” shall be omitted.

Amendment of section 266, Code of Criminal Procedure, 1898.

12. In section 266 of the said Code, after the word ‘includes’ the following words shall be inserted, namely :—“the Courts of the Judicial Commissioners of the Central Provinces, Oudh

and Sind and”.

Amendment of section 274, Code of Criminal Procedure, 1898.

13. In sub-section (2) of section 274 of the said Code, for the word “three” the word “five” shall be substituted ; and to the same sub-section the following proviso shall be added, namely :—

“Provided that, where any accused person is charged with an offence punishable with death, the jury shall consist of not less than seven persons and, if practicable, of nine persons.”

Substitution of new section for section 275, Code of Criminal Procedure, 1898.

**14.** For section 275 of the said Code the following section shall be substituted, namely :—

“ 275. (1) In a trial by jury before the High Court or Court of Session of a person who has been found under the provisions of this Code to be an European or Indian British subject, a majority of the jury shall, if such person before the first juror is called and accepted so requires, consist, in the case of an European British subject, of persons who are Europeans or Americans and, in the case of an Indian British subject, of Indians.

Jury for trial of European and Indian British subjects and others,

(2) In any such trial by jury of a person who has been found under the provisions of this Code to be an European (other than an European British subject) or an American, a majority of the jury shall, if practicable and if such European or American before the first juror is called and accepted so requires, consist of persons who are Europeans or Americans.”

Amendment of section 284, Code of Criminal Procedure, 1898.

**15.** In section 284 of the said Code, for the words “two or more shall be chosen, as the Judge thinks fit,” the words “not less than three and, if practicable, four shall be chosen” shall be

substituted.

Insertion of new section 284A in the Code of Criminal Procedure, 1898.

**16.** After section 284 of the said Code the following section shall be inserted, namely :—

“ 284A. (1) In a trial with the aid of assessors of a person who has been found under the provisions of this Code to be an European or Indian British subject, if the European or Indian British subject accused, or, where there are several European British subjects accused, or several Indian British subject accused all of them jointly, before the first assessor is chosen so require, all the assessors shall, in the case of European British subjects, be persons who are Europeans or Americans or, in the case of Indian British subjects, be Indians.

Assessors for trial of European and Indian British subjects and others,

(2) In a trial with the aid of assessors of a person who has been found under the provisions of this Code to be an European (other than an European British subject) or an American, all the assessors shall, if practicable and if such European or American before the first assessor is chosen so requires, be persons who are Europeans or Americans.”

Insertion of new section 285A in the Code of Criminal Procedure, 1898.

**17.** After section 285 the following heading and section shall be inserted, namely :—

“DD.—*Joint trials.*

**285A.** In any case in which an European or American is accused jointly with a person not being an European or American, or an Indian British subject is accused jointly with a person not being an Indian, and such European, Indian British subject or American is committed for trial before a Court of Session, he and such

Trial of European or Indian British subject on European or American jointly accused with others,



other person may be tried together, but if he requires to be tried in accordance with the provisions of section 275 or section 284A and is so tried, and the other person accused requires to be tried separately, such other person shall be tried separately in accordance with the provisions of this Chapter."

Substitution of new section for section 312, Code of Criminal Procedure, 1898.

18. For section 312 of the said Code the following section shall be substituted, namely :—

Number of special jurors. "312. The High Court may prescribe the number of persons whose names shall be entered at any one time in the special jurors list :

Provided that no definite number of Europeans or of Americans or of Indians shall be so prescribed."

Amendment of section 326, Code of Criminal Procedure, 1898.

19. (1) In sub-section (1) of section 326 of the said Code, after the words "for any such trial" the following words shall be added, namely :—

"and including, where any accused person is an European or an American, as many Europeans or Americans as may be required for the purpose of choosing jurors or assessors for the trial."

(2) To the same section the following subsections shall be added, namely :—

"(3) Where the accused requires and is entitled to be tried under the provisions of section 275, there shall be chosen by lot, in the manner prescribed by or under section 276, from the whole number of persons returned the jurors who are to constitute the jury until a jury containing the proper number of Europeans or Europeans and Americans or of Indians, as the case may be, has been obtained :

Provided that, in any case in which the proper number of Europeans or Americans cannot otherwise be obtained, the Court may, in its discretion for the purpose of constituting the jury, summon any person excluded from the list on the ground of his being exempted under section 320.

(4) Where, under the proviso to sub-section (3), the Court proposes to summon as a juror any person in His Majesty's Army, the provisions of section 317 shall apply in like manner as they apply for the purpose of the summoning of military jurors for a trial under section 316."

Repeal of section 336, Code of Criminal Procedure, 1898.

20. Section 336 of the said Code shall be omitted.

21. In section 390 of the said Code, after the word "shall" the words "subject to the provisions of section 391" shall be inserted.

Amendment of section 390, Code of Criminal Procedure, 1898.

**22** In sub section (1) of section 391 of the said Code, for the words  
 Amendment of section 391, Code of Criminal Procedure. 1898. "is sentenced to whipping in addition to imprisonment in a case which is subject to appeal" the following shall be substituted, namely :—

(a) "is sentenced to whipping only and furnishes bail to the satisfaction of the Court for his appearance at such time and place as the Court may direct, or

(b) is sentenced to whipping in addition to imprisonment."

Amendment of section 408, Code of Criminal Procedure, 1898.

**23.** In section 408 of the said Code, clause (a) of the proviso shall be omitted.

**24.** In section 413 of the said Code, the words "or the District Magistrate or other Magistrate of the first class" and the words "or of whipping only" shall be omitted ; and after the words "one month only or "the words" in which a Court of Session or

District Magistrate or other Magistrate of the first class passes a sentence" shall be inserted,

Amendment of section 414, Code of Criminal Procedure, 1898.

**25.** In section 414 of the said Code, the words "of imprisonment not exceeding three months only, or" and the words "or of whipping only" shall be omitted.

Repeal of section 416, Code of Criminal Procedure, 1898.

**26.** Section 416 of the said Code shall be omitted.

**27.** For Chapter XXXIII including sections 443 to 463 of the said Code the following Chapter and sections shall be substituted, namely :—  
 Substitution of new Chapter for Chapter XXXIII, Code of Criminal Procedure, 1898.

### — — — — — "CHAPTER XXXIII.

#### SPECIAL PROVISIONS RELATING TO CASES IN WHICH EUROPEAN AND INDIAN BRITISH SUBJECTS ARE CONCERNED.

**413. (1)** Where, in the course of the trial outside a presidency town of any offence punishable with imprisonment, the accused person, at any time before he is committed for trial under section 213 or is asked to show cause under section 242 or enters on his defence under section 256, as the case may be, claims that the case ought to be tried under the provisions of this Chapter, the Magistrate inquiring into or trying the case, after making such inquiry as he thinks necessary, and after allowing the accused person reasonable time within which to adduce evidence in support of his claim, shall if he is satisfied—

(a) that the complainant and the accused persons or any of them are respectively European and Indian British subject or Indian and European British subjects, or

(b) that, in view of the connection with the case of both an European British subject and an Indian British subject, it is expedient for the ends of justice that the case should be tried under the provisions of this Chapter, record a finding that the case is a case which ought to be tried under the provisions of this Chapter, or, if he is not so satisfied, record a finding that it is not such a case.

(2) Where the Magistrate rejects the claim, the person by whom it was made may appeal to the Sessions Judge, and the decision of the Sessions Judge thereon shall be final, and shall not be questioned in any Court in appeal or revision.

(3) Where the Magistrate rejects the claim, he shall stay the proceedings until the expiration of the period allowed for the presentation of the appeal or, if an appeal is presented, until it has been decided.

444. For the purposes of section 443, "complainant" means any person making a complaint or, in relation to any case of which cognizance is taken under clause (b) of section 190, sub-section (1), any person who has given information relating to the commission of the offence within the meaning of section 154 :

Provided that a Public Prosecutor, a public servant, a member, officer or servant of any local authority, a railway servant as defined in section 3 of the Indian Railways Act, 1890,\* or an officer or servant of any company, association or other body to which the Local Government may, by general or special order published in the local official Gazette, declare the provisions of this section to apply, shall not, by reason only of the fact that he has made a complaint of, or given information of, an offence in his capacity as such Public Prosecutor, public servant, railway servant, member, officer or servant, be deemed to be a complainant within the meaning of this section, nor shall a police-officer be so deemed by reason only of the fact that a report under section 173 relating to a case has been made by or through him.

445. (1) Where a Magistrate or a Sessions Judge decides under section 443 that a case ought to be tried under the provisions of this Chapter and the case is a summons case, the Magistrate trying the same shall direct that the case be referred to a Bench of two Magistrates and shall send a copy of such order to the District Magistrate who shall forthwith provide for the constitution of a Bench of two Magistrates of the first class, of whom one shall be an European and the other an Indian, for the trial of the case.

(2) Where the Magistrates constituting the Bench by which a case is tried under this section differ in opinion, the case, together with their opinions thereon, shall be laid before the Sessions Judge, who may examine any party or recall and examine any witness who has already given evidence in the case, and may call for and take any further evidence, and shall thereafter pass such judgment, sentence or order in the case as he thinks fit and as is according to law.

(3) Any person convicted by a Bench under this section shall have the same right of appeal as if he had been convicted by a Magistrate of the first class, and any person convicted by a Sessions Judge under sub-section (2) shall have the same right of appeal to the High Court as if he had been convicted by the Sessions Judge at a trial held by the Sessions Judge under this Code.

(4) In any case in which it is impracticable to constitute a Bench in accordance with the provisions of subsection (1) in any district, the District Magistrate shall transfer the case for trial by like Bench to such other district as the High Court may, by general or special order, direct.

(5) Notwithstanding anything contained in this section, the Local Government may, by notification in the local official Gazette, direct that all summons-cases tried under the provisions of this Chapter in any district specified in the notification shall be tried as if they were warrant-cases in accordance with the provisions hereinafter in this Chapter laid down for the trial of warrant-cases.

446. (1) Where a Magistrate or a Sessions Judge decides under section 443 that a case ought to be tried under the provisions of this Chapter and the case is a warrant-case, the Magistrate inquiring into or trying the case shall, if he does not discharge the accused under section 209 or section 253, as the case may be, commit the case for trial to the Court of Session, whether the case is or is not exclusively triable by that Court.

(2) Where an accused is committed to the Court of Session under sub-section (1), the Court shall proceed to try the case as if the accused had required to be tried in accordance with the provisions of section 275, and the provisions of that section and the other provisions of Chapter XXIII, so far as they are applicable, shall apply accordingly.

Provided that where the trial before the Court of Session would in the ordinary course be with the aid of assessors and the accused, or all of them jointly, require to be tried in accordance with the provisions of section 284A, the trial shall be held with the aid of assessors all of whom shall, in the case of European British subjects, be persons who are Europeans or Americans or, in the case of Indian British subjects, be Indians.

447. If at any stage of an inquiry or trial under this Code it appears to the Magistrate that the case is or might be held to be a case which ought to be tried under the provisions of this Chapter, he shall forthwith inform the accused person of his rights under this Chapter.

448. For the purpose of the trial in Rangoon of any person under the provisions of this Chapter, references to the Sessions Judge shall be construed as references to, the High Court of Judicature at Rangoon,

Special provisions relating to appeal.

449. (1) Where—

(a) a case is tried by jury in a High Court or Court of Session under the provisions of this Chapter, or

(b) a case which would otherwise have been tried under the provisions of this Chapter is under this Code committed to or transferred to the High Court and is tried by jury in the High Court, or

(c) a case is tried by jury in the High Court in a presidency-town and the High Court grants leave to appeal on the ground that the case would, if it had been tried outside a presidency-town, have been triable under the provisions of this Chapter,

then, notwithstanding anything contained in section 418 or section 423, sub-section (2), or in the letters patent of any High Court, an appeal may lie to the High Court on a matter of fact as well as on a matter of law.

(2) Notwithstanding anything contained in the letters patent of any High Court, the Local Government may direct the Public Prosecutor to present an appeal to the High Court from an original order of acquittal passed by the High Court in any such trial as is referred to in sub-section (1),

(3) An appeal under sub-section (1) or sub-section (2) shall, where the High Court consists of more than one judge, be heard by two judges of the High Court.

28. In sub-section (2) of section 478 of the said Code, the words and figures "subject to the provisions of section 443" shall be omitted ; and, after the word and figures "Chapter XVIII" the words and figures "and of Chapter XXXIII in cases where that Chapter applies" shall be inserted,

Amendment of section 478, Code of Criminal Procedure, 1898.

29. In section 480 of the said Code,—

(a) in sub-section (1), the words "whether he is a European British subject or not" shall be omitted ; and

(b) in sub-section (2), for the words and figures "section 443 or section 444" the words and figures "section 29A or in Chapter XXXIII" shall be substituted.

30. (1) In sub-section (1) of section 491 of the said Code,—

Amendment of section 491, Code of Criminal Procedure, 1898.

(a) for the words "Any of the High Courts of Judicature at Fort William, Madras and Bombay" the words "Any High Court" shall be substituted ; and

(b) for the words "ordinary original civil jurisdiction" the words "appellate criminal jurisdiction" shall be substituted,

(2) In sub-section (2) of the same section, for the words "Each of the said High Courts" the words "The High Court" shall be substituted.

31. In Chapter XXXVII of the said Code, after section 491 the following section shall be inserted, namely :—

Insertion of new section 491A in the Code of Criminal Procedure, 1898.

"491A. Any High Court established by letters patent may exercise the powers conferred by section 491 in the case of any European British subject within such territories, other than those within the limits of its appellate criminal jurisdiction, as the Governor General in Council may direct."

Insertion of new section 526A in the Code of Criminal Procedure, 1898.

32. After section 526 of the said Code the following section shall be inserted, namely :—

"526A. (1) Where any person subject to the Naval Discipline Act or to the Army Act or to the Air Force Act\* is accused of any offence such as is referred to in proviso (a) to section 41 of the Army Act, the Advocate General shall, if so instructed by the competent authority, apply to the High Court for the committal or transfer of the case to that High Court and thereupon the High Court shall order that the case be committed for trial to or be transferred to itself and shall thereafter proceed to try the case by jury.

High Court to transfer for trial to itself in certain cases.

(2) The Governor General in Council may, by notification in the Gazette of India, declare any officer to be the competent authority for the purpose of issuing instructions under sub-section (1) in regard to any class of cases specified, in the notification."

Insertion of new Chapter XLIVA in the Code of Criminal Procedure, 1898.

33. After Chapter XLIV of the said Code the following Chapter shall be inserted, namely :—

## "CHAPTER XLIVA.

### SUPPLEMENTARY PROVISIONS RELATING TO EUROPEAN AND INDIAN BRITISH SUBJECTS AND OTHERS.

528A. (1) Where, in any case to which the provisions of Chapter XXXIII do not apply, any person claims to be dealt with as an European or Indian British subject, or where any person claims to be dealt with as an European (other than an European British subject) or an American he shall state the grounds of such claim to the Magistrate before whom he is brought for the purpose of the inquiry or trial ; and such Magistrate shall inquire into the truth of such statement and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject or an Indian British subject, or an European or an American, as the case may be, and shall deal with him accordingly,

Procedure of claim of a person to be dealt with as European or Indian British subject, or as European or American.

\* 29 and 30 Vic c. 109, 44 and 45 Vic. c. 58.

(2) When any such claim is rejected by the Magistrate and the person by whom it was made is committed by the Magistrate for trial before the Court of Session, and such person repeats the claim before such Court, such Court shall, after such further inquiry, if any, as it thinks fit, decide the claim, and shall deal with such person accordingly.

(3) When any Court before which any person is tried rejects any such claim as aforesaid the decision shall form a ground of appeal from the sentence or order passed in such trial.

528B. If in any such case an European or Indian British subject or Failure to plead status a an European (other than an European British subject) or an American does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before and rejected by the committing Magistrate, it is not repeated before the Court to which such person is committed, he shall be held to have relinquished his right to be dealt with as an European British subject or an Indian British subject, or an European or an American, as the case may be, and shall not assert it in any subsequent stage of the case.

528C. Where a person, not being an European British subject is dealt with as an European British subject or, not being an Indian British subject, is dealt with as an Indian British subject or, not being an European (other than an European British subject) or American, is dealt with as an European or American, and such person does not object, the inquiry, commitment, trial, or sentence, as the case may be, shall not, by reason of such dealing, be invalid.

528D. (1) Unless there is something repugnant in the context, all enactments made by the Governor General in Council or the Indian Legislature which confer jurisdiction on Magistrates or on the Court of Session over offences shall be deemed to apply to European British subjects, although such persons are not expressly referred to therein.

(2) Nothing in the section shall be deemed to authorise any Court to exceed the limits prescribed by this Code as to the amount of punishment which it may inflict on an European British subject or to confer jurisdiction on any Magistrate of the second or third class for the trial of such subjects."

Amendment of section 31, Code of Criminal Procedure, 1898.

34. For section 584 of the said Code the following section shall be substituted, namely:—

"534. An omission to inform under section 447 any person of his rights under Chapter XXXIII shall not affect the validity of any proceeding."

Omission to give information under section 447.

**35.** In section 4 of the European Vagrancy Act, 1874\* (hereinafter referred to as the said Act). for the words "the nearest Justice of the Peace exercising the powers of a Magistrate of the first class under the Code of Criminal Procedure" the words "the nearest Magistrate of the first class" shall be substituted.

Amendment of section 4, Act IX of 1874.

**36.** In sections 5, 8 and 29 of the said Act, for the word "Justice" the words "Magistrate of the first class" shall be substituted.

Amendment of sections 5, 8 and 29, Act IX of 1874.

**37.** In sections 7, 9, 10 and 24 of the said Act, for the words "Justice of the Peace exercising powers as aforesaid" the words "Magistrate of the first class" shall be substituted ; and, in section 10 of the said Act, the words "Justice of the Peace," where they first occur, shall be omitted.

Amendment of sections 7, 9, 10 and 24, Act IX of 1874.

**38.** In section 19 of the said Act, for the words "Justice of the Peace," wherever they occur, the words "Magistrate of the first class" shall be substituted.

Amendment of section 19, Act IX, of 1874.

**39.** In section 30 of the said Act, the words "beyond the limits of the said towns", the words and brackets" (other than those contained in Chapter XXXVIII of the same Code," and the words "If from any cause he is committed or held to bail by a Justice of the Peace to take his trial before a High Court, he shall not be at liberty to object to the jurisdiction of such Justice of the Peace or High Court on the ground of anything contained in the former part of this section' shall be omitted.

Amendment of section 30, Act IX of 1874.

**40.** In section 35 of the said Act. the words "Justices of the Peace exercising the powers of a Magistrate of the first class" shall be omitted.

Amendment of section 35 Act IX of 1874.

**41.** In the First schedule to the said Act, for the words "Justice of the Peace for exercising the powers of a Magistrate of the class" the words "Magistrate of the first class" shall be substituted.

Amendment of the First Schedule to Act IX of 1874.

**42.** In the First Schedule to the Indian Limitation Act, 1908,† the following item shall be inserted after item 150, namely :—

Amendment of First Schedule to Act IX of 1908.

150A.—Under the Code of Criminal Procedure, 1898, from a finding rejecting a claim under section 443 of that Code.	Seven days.	The date of the finding,
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**43.** In section 3 of the Central Provinces Courts Act, 1917,‡ the words "except in reference to proceedings against Europeans British subjects and persons jointly charged with the European British subjects" shall be omitted.

Amendment of section 3 Central Provinces Courts Act, 1917.

\* IX of 1874.

† IX of 1908.

‡ C. P. Act I of 1917.



**ACT NO. XIII OF 1923.**

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 16th March, 1923.***An Act further to amend the Married Women's Property Act, 1874.**

Whereas it is expedient further to amend the Married Women's Property Act, 1874 ; \* It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Married Women's Property (Amendment) Act, 1923.

Amendment of section 6, Act III of 1874. **2.** Section 6 of the Married Women's Property Act, 1874,\* shall be renumbered as sub-section (1) of section 6, and to the said section the following sub-section shall be added, namely :—

(2) Notwithstanding anything contained in section 2, the provisions of sub-section (1) shall apply in the case of any policy of insurance such as is referred to therein which is effected by any Hindu, Muhammadan, Sikh or Jain, in Madras after the 31st day of December, 1913, or in any other part of British India after the 1st day of April, 1923.

Provided that nothing herein contained shall affect any right or liability which has accrued or been incurred under any decree of a competent Court passed before the first day of April, 1923."

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\* III of 1874.

**ACT NO. XIV 1923.**

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 16th March, 1923.*

**An Act to provide for the ceation of a fund for the improvement and development of the growing, marketing and manufacture of cotton in India.**

WHEREAS it is expedient to provide for the creation of a fund to be expended by a Committee specially constituted in this behalf for the improvement and development of the growing, marketing and manufacture of cotton in India ; It is hereby enacted as follows :—

Short title and extent.                    **1. (1)** This Act may be called the Indian Cotton Cess Act, 1923.

(2) It extends to the whole of British India (including British Baluchistan and the Santhal Parganas), except Aden.

Definitions.                                **2.** In this Act, unless there is any thing repugnant in the subject or context,—

(a) "Collector" means, in reference to cotton consumed in a mill in British India, the Collector of the district in which the mill is situated ;

(b) "the Committee" means the Indian Central 'Cotton Committee Constituted under this Act ;

(c) "cotton" means raw cotton, whether baled or loose, which has been ginned ;

(d) "Customs-Collector" and "customs-port" mean respectively a Customs collector and a customs-port as defined in section 3 of the Sea Customs Act, 1878\* ;

(e) "mill" means any place which is a factory as defined in section 2 of the Indian Factories Act, 1911,† and in which cotton is converted into yarn or thread either for sale as such or for conversion into cotton goods as defined in section 3 of the Cotton Duties Act, 1896‡ ; and

(f) "prescribed" means prescribed by rules made under this Act.

**3.** There shall be levied and collected on all cotton produced in India and either exported from any customs port to any port outside British India or consumed in any mill in British India a cess at the rate of two annas per standard bale of four hundred pounds avoirdupois, or, in the case of unbaled cotton, of six pies per hundred pounds avoirdupois.

Provided that the cess shall be levied and collected at double the above rates until the expiry of the year from the commencement of this Act.

\* VIII of 1878.

† XII of 1911.

‡ II of 1896.

4. As soon as may be after the commencement of this Act, the Governor General in Council shall cause to be constituted a Committee consisting of the following members, namely :—

Cstitution of Indian Central Cotton Committee.

- (i) the Agricultural Adviser to the Government of India ;
- (ii) six persons representing, respectively, the Agricultural Departments of the Local Government of Madras, Bombay, the United Provinces, the Punjab, the Central Provinces and Burma and nominated respectively by those Local Governments ;
- (iii) the Director General of Commercial Intelligence ;
- (iv) nine persons nominated respectively, by the East India Cotton Association, the Bombay Millowners' Association, the Bombay Chamber of Commerce, the Indian Merchants Chamber Bombay, the Karachi Chamber of Commerce, the Ahmedabad Millowners' Association the Tuticorin Chamber of Commerce, the Upper India Chamber of Commerce, and Empire Cotton Growing Corporation ;
- (v) four persons representing the cotton manufacturing or cotton ginning industry, of whom two shall be nominated by the Local Government of the Central Provinces and one by each of the Local Governments of Madras and the Punjab ;
- (vi) one person nominated by the Local Government of Bengal ;
- (vii) one person having knowledge of co-operative banking nominated by the Governor General in Council ;
- (viii) ten persons representing the cotton growing industry in Madras, Bombay, the United Provinces the Punjab, and the Central Provinces and Berar, of whom two shall be nominated by each of the Local Governments of those Provinces ;
- (ix) Three persons nominated, respectively, by the Government of His Exalted Highness the Nizam of the Hyderabad State, by the Durbar of the Baroda State and by the Durbar of the Gwalior State ;
- (x) one person nominated jointly by the Durbars of the Indian States in Rajputana and Central India ; and
- (xi) such additional persons as the Governor General in Council may, by notification in the Gazette of India, appoint :

Provided that, if within the period prescribed in this behalf, any authority or other person fails to make any nomination which it or he is entitled to make under this section, the Governor General in Council may himself appoint a member or members, as the case may be, to fill vacancy or vacancies.

5. (1) The Committee so constituted shall be a body corporate by the name of the Indian Central Cotton Committee, having perpetual succession and a common seal with power to acquire and hold property both moveable and immoveable and to contract, and shall by the said name sue and be sued.

Incorporation of the Committee.

(2) The Agricultural Adviser to the Government of India shall be *ex-officio* President of the Committee.

(3) The Secretary of the Committee shall be a person, not being a member of the Committee, appointed by the Governor General in Council.

6. (1) The owner of every mill shall furnish to the Collector, on or before the seventh day of each month, a return stating the total amount of cotton consumed or brought under process in the mill during the proceeding month, together with such further information in regard thereto as may be prescribed :

Delivery of monthly returns.

Provided that no return shall be required in regard to cotton consumed or brought under process before the commencement of this Act.

(2) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

7. (1) On receiving any return made under section 6, the Collector shall assess the cotton cess payable in respect of the period to which the return relates, and if the amount has not already been paid shall cause a notice to be served upon the owner of the mill requiring him to make payment of the amount assessed within ten days of the service of the notice.

(2) If the owner of any mill fails to furnish in due time the return referred to in section 6 or furnishes a return which the Collector has reason to believe is incorrect or defective, the Collector shall assess the the amount payable by him in such manner, if any, as may be prescribed, and the provisions of sub-section (1) shall thereupon apply as if such assessment had been made on the basis of a return furnished by the owner.

Provided that, in the case of a return which he has reason to believe is incorrect or defective, the collector shall not assess the cess at an amount higher than that at which it is assessable on the basis of the return without giving to the Owner a reasonable opportunity of proving the correctness and completeness of the return.

(3) A notice under sub-section (1) may be served on the owner of a mill either by post or by delivering it to the owner or his agent at the mill.

8. In respect of cotton exported by sea, the cess shall be assessed and levied by the Customs-collector at the customs-port of export and, subject to the provisions of this Act and of any rules made thereunder, shall for all or any of the purposes of the Sea Customs Act, 1878,\* be deemed to be a duty of customs.

9. (1) An assessment made in accordance with the provisions of section 7 or section 8 shall not be questioned in any Court.

Finality of assessment and recovery of unpaid cess.

(2) Any owner of a mill who is aggrieved by an assessment made under section 7 may, within three months of service of the notice referred to in sub-section (1) of that section, apply to the Local Government for the cancellation or modification of the assessment and, on such application, the Local Government may cancel or modify the assessment and order the refund to such owner of the whole or part, as the case may be, of any amount paid thereunder.

(3) Any sum recoverable under section 7 may be recovered as an arrear of land revenue.

**10. (1)** The Collector or any officer empowered by general or special order of the Local Government in this behalf shall have free access at all reasonable times during working hours to any mill or to any part of any mill.

Power to inspect mills and take copies of records and accounts.

(2) The Collector or any such officer may at any time, with or without notice to the owner, examine the working records, sale records and accounts of any mill and take copies of or extracts from all or any of the said records or accounts for the purpose of testing the accuracy of any return or of informing himself as to the particulars regarding which information is required for the purpose of this Act or any rules made thereunder.

(3) Where any officer other than the Collector proposes to examine under sub-section (2) any record or account containing the description or formulae of any trade process, the owner of the mill may give to the said officer, for transmission to the collector, a written notice of objection and the officer shall thereupon seal up the record or account pending the orders of the Collector.

**11. (1)** All such copies and extracts and all information acquired by a Collector or any other officer from an inspection of any mill or warehouse or from any return submitted under this Act shall be treated as confidential.

Information acquired to be confidential.

(2) If the Collector or any such officer discloses to any person other than a superior officer any such information as aforesaid without the previous sanction of the Local Government, he shall be punishable with imprisonment which may extend to six months and shall also be liable to fine :

Provided that nothing in this section shall apply to the disclosure of any such information for the purposes of a prosecution in respect of the making of a false return under this Act.

**12. (1)** On the last day of each month, or as soon thereafter as may be convenient, the proceeds of the cess recovered during that month shall, after deduction of the expenses, if any, of collection and recovery, be paid to the Committee.

Application of proceeds of cess.

(2) Subject to such conditions as may be prescribed, the said proceeds and any other monies received by the Committee shall be applied to meeting the expenses of the Committee and the cost of such measures as

it may, with the previous approval of the Governor General in Council, decide to undertake for promoting agricultural and technological research in the interests of the cotton industry in India.

**13** No act done or proceeding taken under this Act shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Committee or the Standing Finance Sub-Committee, if any.

**14.** The Governor General in Council may, by notification in the Gazette of India, declare that, with effect from such date as may be specified in the notification, the Committee shall be dissolved, and on the making of such declaration all funds and other property vested in the Committee shall vest in His Majesty and this Act shall be deemed to have been repealed.

**15. (1)** The Governor General in Council may make rules for the purpose of carrying into effect all or any of the provisions of this Act.

**(2)** In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) for prescribing the time with which nominations shall be made under section 4 whether in the first instance or on the occurrence of vacancies ;
- (b) for prescribing the term of office of the members of the Committee ;
- (c) for prescribing the circumstances in which and the authority by which any member may be removed ;
- (d) for the holding of a minimum number of meetings of the Committee during any year ;
- (e) for the maintenance by the Committee of a record of all business transacted and the submission of copies of such records to the Governor General in Council ;
- (f) for the definition of the powers of the Committee and of the Secretary to enter into contracts which shall be binding on the Committee, and the manner in which such contracts shall be executed ;
- (g) for the regulation of the travelling allowances of members of the Committee and of their remuneration, if any ;
- (h) for the definition of the powers of the Committee and the Secretary in respect of the appointment, promotion and dismissal of officers and servants of the Committee, and in respect of the creation and abolition of appointments of such officers or servants ;
- (i) for the regulation of the grant of pay and leave to officers and servants of Committee, and the payment of leave allowances to such officers and servants, and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted ;

- (7) for the regulation of the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Committee ;
- (k) for prescribing the establishment and maintenance of a provident fund for the officers and servants of the Committee, and for the deduction of subscriptions to such provident fund from the pay and allowances of such officers and servants, other than Government servants whose services have been lent or transferred to the Committee ;
- (l) for prescribing the preparation of budget estimates of the annual receipts and expenditure of the Committee and of supplementary estimates of expenditure not included in the budget estimates, and the manner in which such estimates shall be sanctioned and published ;
- (m) for defining the powers of the Committee, the Standing Finance Sub-Committee, if any, the President and the Secretary, respectively, in regard to the expenditure of the funds of the Committee, whether provision has or has not been made in the budget estimates or by reappropriation for such expenditure, and in regard to the reappropriation of estimated savings in the budget estimates of expenditure ;
- (n) for prescribing the maintenance of accounts of the receipts and expenditure of the Committee and providing for the audit of such accounts ;
- (o) for prescribing the manner in which payments are to be made by or on behalf of the Committee, and the officers by whom orders for making deposits or investments or for withdrawals or disposal of the funds of the Committee shall be signed ;
- (p) for determining the custody in which the current account of Committee shall be kept, and the bank or banks at which surplus monies at the credit of the Committee may be deposited at interest, and the conditions on which such monies may be otherwise invested ;
- (q) for prescribing the preparation of a statement showing the sums allotted to Provincial Departments of Agriculture or institutions not under the direct control of the Committee for expenditure on research, the actual expenditure incurred, the outstanding liabilities, if any, and the disposal of unexpended balances at the end of the year ;
- (r) the assessment, levy, and payment of the cotton cess in respect of cotton exported by sea ; and
- (s) any other matter which is to be or may be prescribed.

16. The Committee may, with the previous sanction of the Governor General in Council, make rules, consistent with this Act and with any rules made under section 15 to provide for all or any of the following

Power of the Committee to make rules.

matters, namely :—

- (a) for the appointment of a Standing Finance Sub-Committee and the delegation thereto of any powers exercisable under this Act by the Committee ;
- (b) for prescribing the method of appointment, removal and replacement and the term of office of members of the Standing Finance Sub-Committee, and for the filling of vacancies therein ;
- (c) for the appointment of the dates, times and places for meetings of the Committee and the Standing Finance Sub-Committee, and for regulating the procedure to be observed at such meetings ;
- (d) for determining the circumstances in which security may be demanded from officers and servants of the Committee and the amount and nature of such security in each case ;
- (e) for determining the times at which, and the circumstances in which, payments may be made out of the provident fund and the conditions on which such payments shall relieve the fund from further liability ;
- (f) for determining the contribution, if any, payable from the funds of the Committee to the provident fund ;
- (g) for regulating generally all matters incidental to the provident fund and the investment thereof ;
- (h) for defining the powers and duties of the Secretary of the Committee.

**17.** All rules made under section 15 or section 16 shall be published in the Gazette of India and, on such publication, shall have effect as if enacted in this Act.

Publication of rules.



**ACT NO. XV OF 1923.**

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 16th March, 1923.***An Act to amend the Indian Income-tax Act, 1922.**

WHEREAS it is expedient to amend the Indian Income-tax Act, 1922 ;\*  
It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Income tax (Amendment) Act, 1923.

2. To sub-section (1) of section 7 of the Indian Income-tax Act, 1922\*  
(hereinafter referred to as the said Act), the  
Amendment of section 7, following explanation shall be added, namely :—  
Act XI of 1922.

*“Explanation.—*The right of a person to occupy free of rent as a place of residence any premises provided by his employer is a perquisite for the purposes of this sub-section.”

3 (1) In section 68 of the said Act, in the  
Amendment of section second proviso—  
68, Act XI of 1922.

(a) for the words and figures “to all assessments made under that Act in the year ending on the 31st day of March, 1922,” the following shall be substituted, namely :—

“to income-tax leviable under that Act in respect of the year beginning on the first day of April, 1921, and to super-tax chargeable under the Super-tax Act, 1920, in that year” ; and

(b) for the words and figures “section 19 of the said Act “ the words “that section” shall be substituted.

(2) The amendments made in the said Act by sub-section (1) shall have effect as if they had been made on the 1st day of April, 1922.

**ACT NO. XVI OF 1923.**

PASSED BY THE INDIAN LEGISLATURE.

*Received the Assent of the Governor General on the 16th March, 1923.***An Act further to amend the Government Savings Banks Act, 1873.**

WHEREAS it is expedient further to amend the Government Savings Banks Act, 1873 ;† It is hereby enacted as follows :—

Short title. 1. This Act may be called the Government Savings Banks (Amendment) Act, 1923.

2. In section 3 of the Government Savings Banks Act, 1873† (hereinafter referred to as the said Act), for the definition of “Secretary” the following shall be substituted, namely :—  
Amendment of section 3,  
Act V of 1873.

\* XI of 1922.

† V of 1873.

"Secretary" means, in the case of a Post Office Savings Bank, the Postmaster-General appointed for the area in which the Savings Bank is situate."

Substitution of new section for section 4. Act V of 1873.

3. For section 4 of the said Act the following section shall be substituted, namely :—

"4. If a depositor dies and probate of his will or letters of administration of his estate or a certificate granted under the Succession Certificate Act, 1889,\* is not produced to the Secretary of the Government Savings Bank in which the deposit is, then—

(a) if the deposit does not exceed three thousand rupees, the Secretary may pay the same to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, or

(b) if the deposit does not exceed one hundred rupees, any officer employed in the management of a Government Savings Bank, who is empowered in this behalf by a general or special order of the Governor General in Council, may, subject to any general or special orders of the Secretary in this behalf, pay the deposit to any person appearing to him to be entitled to receive it or to administer the estate."

4. In sections 6 and 7 of the said Act, after the words "Secretary of any such Bank" the words "or any officer empowered under section 4" shall be inserted.

A amendment of sections 6 and 7, Act V of 1873,

## ACT NO. XVII OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 16th March, 1923.*

### An Act to amend section 29 of the Prisoners Act, 1900.

WHEREAS it is expedient to amend section 29 of the Prisoners Act, 1900 ;† It is hereby enacted as follows :—

Short title.

1. This Act may be called the Prisoners (Amendment) Act, 1923.

2. In section 29 of the Prisoners Act, 1900,—†

(a) to sub-section (1) after the words "British India" the words "or to any prison in Berar" shall be added ; and

(b) to sub-section (2) the following words shall be added, namely :—

"or, in the case of a prisoner so confined in a prison in the Central Provinces, for his removal to any other prison in the Province or to any prison in Berar",

**ACT NO. XVIII OF 1923.**

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 2nd April, 1923.***An Act further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870.**

Whereas it is expedient further to amend the Code of Criminal Procedure, 1898,\* and the Court-fees Act, 1870†; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1923.

Amendment of section 10, Code of Criminal Procedure, 1898.

2. In section 10 of the Code of Criminal Procedure' 1898\* (hereinafter referred to as the said Code),—

(i) in sub-section (2), the words "for a period not exceeding six months" shall be omitted, and after the words 'under this Code, the words "or under any other law for the time being in force," shall be inserted; and

(ii) after sub-section (2) the following sub-section shall be added, namely :—

"(3) For the purposes of section 192, sub-sections (1), 407, sub-section (2), 528, sub-sections (2) and (3), such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate."

3. After sub-section (2) of section 18 of the said Code the following

Amendment of section 18, Code of Criminal Procedure, 1898. sub-sections shall be added, namely :—

"(3) A Presidency Magistrate may be appointed under this section for such term as the Local Government may by general or special order direct.

(4) The Local Government may appoint any person to be an Additional Chief Presidency Magistrate, and such Additional Chief Presidency Magistrate shall have all or any of the powers of a Chief Presidency Magistrate under this Code or under any other law for the time being in force, as the Local Government may direct."

4. In sub-section (2) of section 21 of the said Code, after the words

Amendment of section 21, Code of Criminal Procedure, 1898. "Presidency Magistrates" the words "including Additional Chief Presidency Magistrates" shall be inserted.

5. In sub-section (2) of section 29 of the said Code, after the words

Amendment of section 29, Code of Criminal Procedure, 1898. "subject as aforesaid" shall be inserted.

\* V of 1898.

† VII of 1870.

6. Before section 30 of the said Code the following sections shall be.

Insertion of new section 29B in the Code of Criminal Procedure, 1898.

inserted namely:—

“29B. Any offence, other than one punishable with death or transportation for life, committed by any person who at the date when he appears or is brought before the Courts is under the age of fifteen years, may be tried by a District Magistrate or a Chief Presidency Magistrate, or by any Magistrate specially empowered by the Local Government to exercise the powers conferred by section 8, sub-section (1), of the Reformatory Schools Act, 1897,\* or in any area in which the said Act has been wholly or in part repealed by any other law providing for the custody, trial or punishment of youthful offenders, by any Magistrate empowered by or under such law to exercise all or any of the powers conferred thereby.

7. (1) In section 35 of the said Code,—

Amendment of section 35, Code of Criminal Procedure, 1898.

(i) in sub-section (1), for the words “When a person is convicted at one trial of two or more distinct offences, the Court may,” the following shall be substituted, namely:—

“When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of sections 71 of the Indian Penal Code,” ; and

(ii) in sub-section (3), for the word “aggregate of consecutive” shall be substituted.

(2) The Explanation and Illustration to this section are hereby repealed.

8. In section 40 of the said Code, for the word “transferred” in

Amendment of section 40, Code of Criminal Procedure 1898.

both places where it occurs, the words “appointed” shall be substituted, and the words “continued to” shall be omitted, and for the words “to which” the words “in which” shall be substituted.

9. In Section 45 of the said Code,—

Amendment of section 45, Code of Criminal Procedure 1898.

(i) in sub-section (1)—

(a) after the words “occupier”, where it occurs for the second time, the words “in charge of the management of that land” shall be inserted, and for the word “obtain” the word “possess” shall be substituted ;

(b) to clause (d) after the words “suspicious circumstances,” the following words shall be added, namely :—

\* VIII of 1897.

† XLV of 1860.

"or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to reasonable suspicion that a nonbailable offence has been committed in respect of such person ;" and

(c) in clause (e), after the word "namely," the figures "231, 232, 233, 234, 235, 236, 237, 238," shall be inserted, and for the word and figures "and 460" the figures letters and word "460, 489A, 489B, 489C and 489D" shall be substituted ; and

(ii) in sub-section (3), after the words "District Magistrate," the words "or sub-divisional Magistrate" shall be inserted ; after the word "persons" the words "with his or their consent" shall be inserted ; and for the words "to be village-headman for the purposes of this section in any village for which there is no such headman appointed under any other law" the following shall be substituted, namely :—

"to perform the duties of a village-headman under this section whether a village-headman has or has not been appointed for that village under any other law."

**10.** In sub-section (1) of section 54 of the said Code, in clause *fourthly*, for the word "or" the word "and" shall be substituted, and to the same sub-section the following clause shall be added namely :—

Amendment of section  
54, Code of Criminal Pro-  
cedure, 1898.

"*ninthly*, any person for whose arrest a requisition has been received from another police-officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition."

**11.** In sub section (1) of section 56 of the said Code, after the words "police-station" the words "or any police-officer making an investigation under Chapter XIV" shall be inserted, and to the same sub-section the following shall be added, namely :—

Amendment of section  
56, Code of Criminal Pro-  
cedure, 1898.

"The officer so required shall before making the arrest notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order."

**12.** For sub-section (1) of section 59 of the said Code the following sub-section shall be substituted, namely :—

Amendment of section  
59, Code of Criminal  
Procedure, 1898.

"(1) Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or any proclaimed offender, and, without unnecessary delay, shall make over any person so

arrested to a police-officer, or, in the absence of a police-officer, take such person or cause him to be taken in custody to the nearest police-station."

**13. (1)** After sub-section (6) of section 88 of the said Code the Amendment of section following sub-subsections shall be inserted, 88, Code of Criminal Procedure, 1898. namely :—

"(6A) If any claim is preferred to, or objection made to the attachment of, any property attached under this section within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under this section, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part :

Provided that any claim preferred or objection made within the period allowed by this subsection may, in the event of the death of the claimant or objector, be continued by his legal representative.

(6B) Claims or objections under sub-section (6A) may be preferred or made in the Court by which the order of attachment is issued or, if the claim or objection is in respect of property attached under an order endorsed by a District Magistrate or Chief Presidency Magistrate in accordance with the provisions of sub-section (2), in the Court of such Magistrate.

(6C) Every such claim or objection shall be inquired into by the Court in which it is preferred or made :

Provided that, if it is preferred or made in the Court of a District Magistrate or Chief Presidency Magistrate such Magistrate may make it over for disposal to any Magistrate of the first or second class or to any Presidency Magistrate, as the case may be, subordinate to him.

(6D) Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (6A) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute ; but subject to the result of such suit, if any, the order shall be conclusive.

(6E) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment."

(2) In sub-section (7) of the same section, after the words "date of attachment" the words "and until any claim preferred or objection made under sub-section (6A) has been disposed of under that sub-section" shall be inserted.

**14. (1)** To sub-section (1) of section 103 of the said Code, after the Amendment of section words "witness the search," the following shall 103, Code of Criminal Procedure, 1898. be added, namely :—

"and may issue an order in writing to them or any of them so to do."

(2) After sub-section (4) of the same section the following sub-section shall be added, namely :—

(5) Any person who without reasonable cause refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Indian Penal Code.”\*

Amendment of section  
106. Code of Criminal  
Procedure, 1898.

15. In section 106 of the said Code,—

(i) in sub-section (1), for the word “rioting” the following words shall be substituted namely :—

“any offence punishable under Chapter VIII of the Indian Penal Code,\* other than an offence punishable under section 143, section 149, section 153A or section 154 thereof, or of” and the words “or of assembling armed men or taking other unlawful measures with the evident intention of committing the same,” shall be omitted ; and

(ii) in sub-section (3), after the words “Appellate Court” the words including a Court hearing appeals under section 407” shall be inserted.

16. (1) In sub-section (1) of section 107 of the said Code, after the words “the Magistrate,” where they first occur, the words “if in his opinion there is sufficient ground for proceeding” shall be inserted.

Amendment of section  
107. Code of Criminal  
Procedure, 1898.

(2) In sub-section (4) of the same section, for the words “this section” the word, figure and brackets “sub-section (3)” shall be substituted, and for the words “until the completion of the inquiry hereinafter prescribed” the words “pending further action by himself under this Chapter” shall be substituted.

17. In section 108 of the said Code, after the words “in writing” the words “or in any other manner intentionally” shall be inserted ; after the words “such Magistrate” the words “if in his opinion there is sufficient ground for proceeding” shall be inserted ; for the words “or printed or published” the words “and edited, printed and published” shall be substituted ; and after the figures “1867” the words “with reference to any matter contained in such publication” shall be inserted.

Amendment of section  
108. Code of Criminal Pro-  
cedure, 1898.

Amendment of section  
110. Code of Criminal  
Procedure, 1898.

18. In section 110 of the said Code,...

(i) in clause (a), the word “or” where it first occurs, shall be omitted, and after the word “thief” the words “or forger”, shall be inserted ; and

(ii) for clause (d) the following clause shall be substituted, namely :—

“(d) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or

mischief, or any offence punishable under Chapter XII of the Indian Penal Code,\* or under section 489A, section 489B' section 489C or section 489D of that Code, or''.

Amendment of section  
117, Code of Criminal  
Procedure, 1898.

19. In section 117 of the said Code.—

(i) after sub-section (2) the following sub-section shall be inserted, namely :—

“(3) Pending the completion of the inquiry under sub-section (1), the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 112 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded :

Provided that—

(a) no person against whom proceedings are not being taken under section 108, section 109, or section 110, shall be directed to execute a bond for maintaining good behaviour, and

(b) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 112” ;

(ii) sub-section (3) shall be re-numbered (4), and after the words habitual “offender” in the said sub-section, the words “or is so desperate and dangerous as to render his being at large without security hazardous to the community” shall be inserted ; and

(iii) sub-section (4) shall be re-numbered (5).

Substitution of new section  
for section 122, Code  
of Criminal Procedure,  
1898.

20. For section 122 of the said Code the following section shall be substituted, namely :—

“122. (1) A Magistrate may refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond :

Provided that before so refusing to accept or rejecting any such surety, he shall either himself hold an inquiry on oath into the fitness of the surety or cause such inquiry to be held and a report to be made thereon by a Magistrate subordinate to him.

(2) Such Magistrate shall before holding the inquiry give reasonable notice to the surety and to the person by whom the surety was offered and shall in making the inquiry record the substance of the evidence adduced before him.

\* XLV of 1860.



(3) If the Magistrate is satisfied, after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (1), and the report of such Magistrate (if any) that the surety is an unfit person for the purposes of the bond, he shall make an order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing ;

Provided that, before making an order rejecting any surety who has previously been accepted, the Magistrate shall issue his summons or warrant, as he thinks fit, and cause the person for whom the surety is bound to appear or to be brought before him."

Amendment of section 123. Code of Criminal Procedure, 1898. 21. (1) After sub-section (3) of section 123 of the said Code the following sub-sections shall be inserted, namely :—

"(3A) If security has been required in the course of the same proceedings from two or more persons in respect of any one of whom the proceedings are referred to the Sessions Judge or the High Court under sub-section (2), such reference shall also include the case of any other of such persons who has been ordered to give security, and the provisions of sub-sections (2) and (3) shall, in that event, apply to the case of such other person also, except that the period (if any) for which he may be imprisoned shall not exceed the period for which he was ordered to give security.

(3B) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section (2) or sub-section (3A) to an Additional Sessions Judge or Assistant Sessions Judge and upon such transfer, such Additional Sessions Judge or Assistant Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings."

(2) In sub-section (6) of the same section, for the word "may" the following words shall be substituted, namely :—

"shall, where the proceedings have been taken under section 108 or section 109, be simple and, where the proceedings have been taken under section 110".

Amendment of section 124. Code of Criminal Procedure, 1898.

22. In section 124 of the said Code.—

(i) in sub-section (1), the words "whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate" shall be omitted ;

(ii) for sub-section (3) the following sub-section shall be substituted, namely :—

"(3) An order under sub-section (1) may direct the discharge of such person either without conditions or upon any conditions which such person accepts :

Provided that any condition imposed shall cease to be operative when the period for which such person was ordered to give security has expired" and

(iii) after sub-section (3) the following sub-sections shall be inserted, namely :—

“(4) The Local Government may prescribe the conditions upon which a conditional discharge may be made.

(5) If any condition upon which any such person has been discharged is, in the opinion of the District Magistrate or Chief Presidency Magistrate by whom the order of discharge was made or of his successor, not fulfilled, he may cancel the same.

(6) When a conditional order of discharge has been cancelled under sub-section (5), such person may be arrested by any police-officer without warrant, and shall thereupon be produced before the District Magistrate or Chief Presidency Magistrate.

Unless such person then gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the period between the date of the breach of the conditions of discharge and the date on which, except for such conditional discharge, he would have been entitled to release), the District Magistrate or Chief Presidency Magistrate may remand such person to prison to undergo such unexpired portion.

A person remanded to prison under this sub-section shall, subject to the provisions of section 122, be released at any time on giving security in accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor.”

23. Sub-section (3) of section 126 of the said Code shall be re-numbered section 126A and in that section, as re-numbered, for the words “When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond” the following shall be substituted, namely :—

Amendment of section 126, Code of Criminal procedure 1898.

“When a person for whose appearance a warrant or summons has been issued under the proviso to sub-section (3) of section 122 or under section 126, sub-section (2), appears or is brought before him the Magistrate shall cancel the bond excuted by such person.”

Substitution of new section for section 133 Code of Criminal Procedure, 1898.

24. For section 133 of the said Code the following section shall be substituted, namely :—

“133. (1) Whenever a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class considers, on receiving a police-report or other information and on taking such evidence (if any) as he thinks fit,

Conditional order for removal of nuisance.

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated, or

that the construction, of any building, or the disposal of any substance as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building, tent or structure, or any tree is in such a condition that is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or

that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order,

to remove such obstruction or nuisance ; or

to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation ; or

to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed ; or

to prevent or stop the erection of, or to remove, repair or support, such building, tent or structure ; or

to remove or support such tree ; or

to alter the disposal of such substance ; or

to fence such tank, well or excavation, as the case may be ; or

to destroy, or confine or dispose of such dangerous animal in the manner provided in the said order ; or if he objects so to do,

to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and to move to have the order set aside or modified in the manner hereinafter provided.

(2) No order duly made by a Magistrate under this section shall be called in in question in any Civil Court.

*Explanation.*—A 'public place' includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes."

**25.** In section 135 of the said Code, in clause (a), after the words "within the time" the words "and in the manner" shall be inserted.

*Amendment of section 135, Code of Criminal Procedure, 1898.*

**26.** After section 139 of the said Code the following section shall be inserted, namely :—

*Insertion of new section 139A in the Code of Criminal Procedure 1898.*

"139A. (1) Where an order is made under section 133 for the purpose of preventing obstruction, nuisance or danger to the public in the use of any way, river, channel or place, the Magistrate shall, on the appearance before him of the person against whom the order was made, question him as to whether he denies the existence of any public right in respect of the way, river, channel or place, and if he does so, the Magistrate shall, before proceeding under section 137 or section 138, inquire into the matter.

(2) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial, he shall stay the proceedings until the matter of the existence of such right has been decided by a competent Civil Court ; and if he finds that there is no such evidence, he shall proceed as laid down in section 137 or section 138, as the case may require.

(3) A person who has, on being questioned by the Magistrate under sub-section (1), failed to deny the existence of a public right of the nature therein referred to, or who, having made such denial, has failed to adduce reliable evidence in support thereof, shall not in the subsequent proceedings be permitted to make any such denial, nor shall any question in respect of the existence of any such public right be inquired into by any jury appointed under section 138.

**27.** In section 144 of the said Code,—

*Amendment of section 144, Code of Criminal Procedure, 1898.*

(i) in sub-section (1), after the words, 'or of any other Magistrate' the words and brackets "(not being a Magistrate of the third class)" shall be inserted, and after the words "under this section" the words "there is sufficient ground for proceeding under this section and shall be inserted ;

(ii) sub-section (4), after the word "may" the words "either on his own motion or on the application of any person aggrieved" shall be inserted ; and

(iii) sub-section (5) shall be re-numbered as sub-section (6), and the following shall be inserted and sub-section (5), namely—

"5) When such an application is received, the Magistrate shall afford to the applicant an early opportunity of appearing before him either in person or by pleader and shewing cause against the order, and if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing."

**28. In section 145 of the said Code, —**

Amendment of section  
145, Code of Criminal  
Procedure, 1898.

(i) in sub-section (4), for the words "receive the evidence" the words "receive all such evidence as may be" shall be substituted ;

(ii) in sub-section (6). after the word "was" the words "or should under the first proviso to sub-section (4) be treated as being" shall be inserted and the following shall be added after the words "such eviction," namely:

"and when he proceeds under the first proviso to sub-section (4), may restore to possession the party forcibly and wrongfully dispossessed,"

(iii) for sub-section (7) the following sub-section shall be substituted, namely:—

"(7) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding, and shall thereupon continue the inquiry, and and if any question arises as to who the legal representative of a deceased party for the purpose of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto ; and

(iv) after sub-section (7) the following sub-sections shall be added, namely:—

(8) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the inquiry, shall make such order for the disposal of such property, or the sale-proceeds thereof, as he thinks fit.

(9) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing.

(10) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under section 107."

**29. (1) To sub-section (1) of section 146 of the said Code the following proviso shall be added, namely :—**

Amendment of section  
146 Code of Criminal  
Procedure, 1898.

"Provided that the District Magistrate or the Magistrate who has attached the subject of dispute may withdraw the attachment at any time if he is satisfied that there is no longer any likelihood of a breach of the peace in regard to the subject of dispute."

(2) In sub-section (2) of the same section after the words "thinks, fit" the words "and if no receiver of the property, the subject of dispute has been appointed by any Civil Court" shall be inserted, and to the same sub-section the following proviso shall be added, namely:—

"Provided that, in the event of a receiver of the property, the subject of dispute, being subsequently appointed by any Civil Court, possession shall be made over to him by the receiver appointed by the Magistrate, who shall thereupon be discharged,"

**30.** For section 147 of the said Code the following section shall be substituted, namely:—

Substitution of new  
section for section 147,  
Code of Criminal Pro-  
cedure 1898.

"147. (1) Whenever any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied, from disputes concerning rights of use of immoveable property, a police-report of other information that dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as explained in section 145, sub-section (2) (whether such right be claimed as an easement or otherwise), within the local limits of his jurisdiction he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims, and shall thereafter inquire into the matter in the manner provided in section 145, and the provisions of that section shall, as far as may be, be applicable in the case of such inquiry.

(2) If it appears to such Magistrate that such right exists, he may make an order prohibiting any interference with the exercise of such right:

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry, or where the right is exercisable only at particular seasons, or on particular occasion unless the right has been exercised during the last of such season or of such occasions before such institution.

(3) If it appears to such Magistrate that such right does not exist, he may make an order prohibiting any exercise of the alleged right.

(4) An order under this section shall be subject to any subsequent decision of a Civil Court of competent jurisdiction."

**31.** In sub-section (3) of section 148 of the said Code, the words "for witnesses, or pleaders' fees, or both, shall be omitted, and for the words "All costs so directed to be paid may be recovered as if they were fines" the words "such costs may include any expenses incurred in respect of witnesses, and of pleaders' fees, which the Court may consider reasonable" shall be substituted.

**32.** In section 157 of the said Code,—

Amendment of section  
157, Code of Criminal  
procedure, 1898.

(i) in sub-section (1), after the words "one of this subordinate officers" the words "not being below such rank as the Local Government may, by general or special order, prescribe in this behalf" shall be inserted, and for the words "and to take such measures as may be necessary," the words "and, if necessary, to take measures" shall be substituted ; and

(ii) to sub-section (2), after the words "that sub-section" the words "and, in the case mentioned in clause (b), such officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the Local Government, the fact that he will not investigate the case or cause it to be investigated shall be added.

**33.** In sub-section (1) of section 161 of the said Code, after the word "Chapter" the words "or any police-officer not below such rank as the Local Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer" shall be inserted.

Amendment of section 161, Code of Criminal Procedure, 1898.

**34.** For sub-section (1) of section 162 of the said Code the following sub-section shall be substituted, namely :—

Amendment of section 162, Code of Criminal Procedure, 1898.

"(1) No statement made by any person to a police-officer in the course of an investigation under this Chapter shall, if reduced into writing, be signed by the person making it ; nor shall any such statement or any record thereof, whether in a police-diary or otherwise, or any part of such statement or record, be used for any purpose (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made :

Statements to police not to be signed ; use of such statements in evidence.

Provided that, when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid the Court shall on the request of the accused refer to such writing and direct that the accused be furnished with a copy thereof, in order that any part of such statement if duly proved, may be used to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872.\* When any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination :

"Provided, further, that, if the Court is of opinion that any part of any such statement is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused."

Amendment of section  
164, Code of Criminal  
Procedure, 1898.

### 35. In section 164 of the said Code—

(i) in sub-section (1) for the words "Every Magistrate not being a police-officer may" the words "Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the Local Government may, if he is not a police-officer" shall be substituted ; and

(ii) in sub-section (3)—

(a) for the words "No Magistrate" the following words shall be substituted, namely :—

"A Magistrate shall before recording any such confession explain to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against him and no Magistrate" ; and

(b) for the words "I believe" the following words shall be substituted namely :—

"I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe."

Amendment of section  
165, Code of Criminal  
Procedure, 1898.

### 36. In section 165 of the said Code,—

(1) for sub-sections (1), and (2) the following sub-sections shall be substituted, namely :—

"(1) Whenever an officer in charge of a police-station or a police-officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police-station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.

(2) A police-officer proceeding under sub-section (1) shall, if practicable, conduct the search in person' ;

(ii) in sub-section (3), after the words "he may" the words "after recording in writing his reasons for so doing" shall be inserted, and for the words "specifying the document or thing for which search is to be made and the place to be searched" the words "specifying the place to be searched and, so far as possible, the thing for which search is to be made" shall be substituted ;

(iii) in sub-section (4), after the words "search warrants" the words "and the general provisions as to searches contained in section 102 and section 103" shall be inserted ; and



(iv) after sub-section (4) the following subsection shall be added, namely :—

“(5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence and the owner or occupier of the place searched shall on application be furnished with a copy of the same by the Magistrate :

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.”

37. (1) In sub-section (1) of section 166 of the said Code, after the words “An officer in charge of a police-station” the words “or a police-officer not being below the rank of sub-inspector making an investigation” shall be inserted.

Amendment of section 166, Code of Criminal Procedure, 1898.

(2) After sub-section (2) of the same section the following sub-sections shall be added, namely :—

“(3) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police-station to cause a search to be made under sub-section (1) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police-station or a police-officer making an investigation under this Chapter to search, or cause to be searched, any place in the limits of another police-station. in accordance with the provisions of section 165, as if such place were within the limits of his own station.

(4) Any officer conducting a search under sub-section (3) shall forthwith send notice of the search to the officer in charge of the police-station within the limits of which such place is situate and shall also send with such notice a copy of the list (if any) prepared under section 103, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in section 165, sub-sections (1) and (3)

(5) The owner or occupier of the place searched shall, on application, be furnished with a copy of any record sent to the Magistrate under sub-section (4) :

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.”

Amendment of section 167, Code of Criminal Procedure, 1898.

38. In section 167 of the said Code,—

(i) in sub-section (1)—

(a) for the words “it appears that any” the words “any person is arrested and detained in custody, and it appears that the” shall be substituted, and the words “under this Chapter” shall be omitted ;

(b) after the words "officer in charge of the police-station" the words "or the police-officer making the investigation if he is not below the rank of sub-inspector" shall be inserted ; and

(c) the words and brackets "(if any)" shall be omitted ; and

(d) to sub-section (2) after the words "such jurisdiction" the following proviso shall be added, namely :—

"Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the Local Government shall authorise detention in the custody of the police."

**39.** In section 169 of the said Code, after the words "officer in charge of the police-station" the words "or to the police-officer making the investigation" shall be inserted.

Amendment of section 169, Code of Criminal Procedure, 1898.

**40. (1)** For sub-section (1) of section 173 of the said Code, the following sub-section shall be substituted, namely :—

Amendment of section 173, Code of Criminal Procedure, 1898.

"(1) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police-station shall—

(a) forward to a Magistrate empowered to take cognizance of the offence on a police-report a report, in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused (if arrested) has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties, and

(b) communicate, in such manner as may be prescribed by the Local Government, the action taken by him to the person, if any, by whom the information relating to the commission of the offence was first given."

(2) After sub-section (3) of the same section the following sub-section shall be inserted, namely :—

"(4) A copy of any report forwarded under this section shall on application, be furnished to the accused before the commencement of the inquiry or trial :

Provided that the same shall be paid for unless the Magistrate for some special reason thinks fit to furnish it free of cost."

**41.** In sub-section (5) of section 174 of the said Code, for the words "or Sub-divisional Magistrate," the words "Sub-divisional Magistrate or Magistrate of the first class," shall be substituted.

Amendment of section 174, Code of Criminal Procedure, 1898.

Amendment of section 181, Code of Criminal Procedure, 1898.

42. For sub-section (3) of section 181 of the said Code the following sub-section shall be substituted, namely :—

“(3) The offence of theft, or any offence which includes theft or the possession of stolen property, may be inquired into or tried by a Court within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.”

Substitution of new section for section 185, Code of Criminal Procedure, 1898.

43. For section 185 of the said Code the following section shall be substituted, namely :—

“185. (1) Whenever a question arises as to which of two or more Courts subordinate to the same High Court ought to inquire into or try any offence, it shall be decided by that High Court.

High Court to decide, in case of doubt, district where inquiry or trial shall take place.

(2) Where two or more Courts not subordinate to the same High Court have taken cognizance of the same offence, the High Court within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced may direct the trial of such offender to be held in any Court subordinate to it, and if it so decides all other proceedings against such person in respect of such offence shall be discontinued. If such High Court, upon the matter having been brought to its notice, does not so decide, any other High Court within the local limits of whose appellate criminal jurisdiction such proceedings are pending may give a like direction, and upon its so doing all other such proceedings shall be discontinued.”

Amendment of section 188, Code of Criminal Procedure, 1898.

inserted.

44. In the first proviso to section 188 of the said Code, after the words “Provided that” the words “notwithstanding anything in any of the preceding sections of this Chapter” shall be

Amendment of section 190, Code of Criminal Procedure, 1898.

45. For clause (b) of sub-section (1) of section 190 of the said Code the following clause shall be substituted, namely :—

“(b) upon a report in writing of such facts made by any police-officer.”

Amendment of section 193, Code of Criminal Procedure, 1898.

46. In sub-section (2) of section 193 of the said Code, the words “in the case of Assistant Sessions Judges” shall be omitted.

Amendment of section 195, Code of Criminal Procedure, 1898.

47. (1) For sub-section (1) of section 195 of the said Code the following sub-section shall be substituted, namely :—

“(1) No Court shall take cognizance—

Prosecution for contempt of lawful authority of public servants. (a) of any offence punishable under sections 172 to 188 of the Indian Penal Code,\* except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate ;

Prosecution for certain offences against public justice. (b) of any offence punishable under any of the following sections of the same Code, namely, sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, except on the complaint in writing of such Court or of some other Court to which such Court is subordinate ; or

Prosecution for certain offences relating to documents given in evidence. (c) of any offence described in section 463 or punishable under section 471, section 475 or section 476 of the same Code, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except on the complaint in writing of such Court, or of some other Court to which such Court is subordinate.”

(2) In sub-section (2) of the same section, for the word “ means ” the word “ includes ” shall be substituted.

(3) Sub sections (4), (5) and (6) of the same section shall be omitted.

(4) Sub-sections (7) and (3) of the same section shall be re-numbered (3) and (4), respectively, and for sub-section (3), as re-numbered the following sub-section shall be substituted, namely :—

“(3) For the purposes of this Section, a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within the local limits of whose jurisdiction such Civil Court is situate :

Provided that—

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate ; and

(b) where appeals lie to a Civil and also to a Revenue Court such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or, proceeding in connection with which the offence is alleged to have been committed.”

(5) After sub-section (4) of the same section as renumbered, the following sub-section shall be inserted, namely :—

“(5) Where a complaint has been made under sub-section (1), clause (a), by a public servant, any authority to which such public servant is

subordinate may order the withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the Court and, upon receipt thereof by the Court, no further proceedings shall be taken on the complaint."

Amendment of section 196A, Code of Criminal Procedure, 1898.

48. In the proviso to section 196A of the said Code, for the figure and brackets "(3)" the figure and brackets "(4)" shall be substituted.

Insertion of new section 196B in the Code of Criminal Procedure, 1898.

49. After section 196A of the said Code the following section shall be inserted, namely :—

"196B. In the case of any offence in respect of which the provisions of section 196 or section 196A apply, a District Magistrate or Chief Presidency Magistrate may, notwithstanding anything contained in those sections or in any other part of this Code, order a preliminary investigation by a police-officer not being below the rank of Inspector, in which case such police-officer shall have the powers referred to in section 155, sub-section (3)."

50. In section 19 of the said Code,—

Amendment of section 197, Code of Criminal Procedure, 1898.

(i) for sub-section (1) the following sub-section shall be substituted namely :—

"(1) When any person who is a Judge within the meaning of section 19 of the Indian Penal Code, or when any Magistrate, or when any public servant who is not removable from his office save by or with the sanction of a Local Government or some higher authority, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of the Local Government ;" and

(ii) in sub-section (2), after the word "Judge" the word "Magistrate" shall be inserted.

Amendment of section 198, Code of Criminal Procedure, 1898.

51. To section 198 of the said Code, the following proviso shall be added, namely :—

"Provided that, where the person so aggrieved is a woman who, according to the customs and manners of the country, ought not to be compelled to appear in public, or where such person is under the age of eighteen years or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his or her behalf."

Amendment of section 199, Code of Criminal Procedure, 1898.

**52.** In section 199 of the said Code, after the word "absence" the words "made with the leave of the Court" shall be inserted, and, to the same section, the following proviso shall be added, namely :—

"Provided that, where such husband is under the age of eighteen years, or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his behalf."

Insertion of new section 199A in the Code of Criminal Procedure, 1898.

**53.** In Chapter XV of the said Code, after section 199, the following section shall be inserted, namely :—

**199A.** When in any case falling under section 198 or section 199, the person on whose behalf the complaint is sought to be made is under the age of eighteen years or is a lunatic, and the person applying for leave has not been appointed or declared by competent authority to be the guardian of the person of the said minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, notice shall be given to such guardian, and the Court shall, before granting the application, give him a reasonable opportunity of objecting to the granting thereof."

Amendment of section 200, Code of Criminal Procedure, 1898.

**54** In section 200 of the said Code, the words and figures "Subject to the provisions of section 476" shall be omitted, and after proviso (a) the following proviso shall be inserted, namely :—

"(aa) when the complaint is made in writing, nothing herein contained shall be deemed to require the examination of a complainant in any case in which the complaint has been made by a Court or by a public servant acting or purporting to act in the discharge of his official duties."

**55.** In section 202 of the said Code,—

Amendment of section 202, Code of Criminal Procedure, 1898.

(i) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely :—

(1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance, or which has been transferred to him under section 192, may, if he thinks fit, for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or, if he is a Magistrate other than a Magistrate of the third class, direct an inquiry or investigation to be made by any Magistrate subordinate to him, or by a police-officer, or by such other person as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint :

Provided that no such direction shall be made—

(a) unless the complainant has been examined on oath under the provisions of section 200, or

(b) where the complaint has been made by a Court under the provisions of this Code.

(2) If any inquiry or investigation under this section is made by a person not being a Magistrate or a police-officer, such person shall exercise all the powers conferred by this Code on an officer in charge of a police-station, except that he shall not have power to arrest without warrant"; and

(ii) after sub-section (2) the following sub-section shall be added, namely :—

"(2A) Any Magistrate inquiring into a case under this section may, if he thinks fit, take evidence of witnesses on oath."

**56.** In section 203 of the said Code, for the words "after examining the complainant and considering the result of the investigation (if any) made under section 202" the words "after considering the statement on oath (if any) of the complainant and the result of any investigation or inquiry under section 202" shall be substituted.

Amendment of section 203, Code of Criminal Procedure, 1898.

**57.** In sub-section (1) of section 206 of the said Code, after the words "or any Magistrate" the words and brackets "(not being a Magistrate of the third class)" shall be inserted.

Amendment of section 210, Code of Criminal Procedure, 1898.

**58.** In sub-section (2) of section 210 of the said Code, for the words "the charge" the words "such charge" shall be substituted.

Amendment of section 215, Code of Criminal Procedure, 1898.

**59.** In section 215 of the said Code, the words and figures "or by a Court of Session under section 477" shall be omitted.

**60.** (1) In sub-section (1) of section 219 of the said Code, for the words "The Magistrate" the words "The committing Magistrate or, in the absence of such Magistrate, any other Magistrate empowered by or under section 206" shall be substituted.

Amendment of section 219, Code of Criminal Procedure, 1898.

(2) In sub-section (2) of the same section, for the words "if the accused so require, be given to him free of cost" the words "be given to the accused free of cost" shall be substituted.

**61.** In sub-section 221 of the said Code,—

Amendment of section 221, Code of Criminal Procedure, 1898.

(i) for the words "has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award," the following shall be substituted, namely :—

"having been previously convicted of any offence, is liable, by reason of such previous conviction to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove

such previous conviction for the purpose of affecting the punishment which the Court may, think fit to award for the subsequent offence," and

(ii) for the words "is omitted" the words "has been omitted" shall be substituted.

Amendment of section  
234, Code of Criminal  
Procedure, 1898.

62. In section 234 of the said Code,—

(i) in sub-section (1), after the words "such offences" the words "whether in respect of the same person or not" shall be inserted ; and

(ii) to sub-section (2) the following proviso shall be added, namely:—

"Provided that, for the purpose of this section, an offence punishable under section 379 of the Indian Penal Code\* shall be deemed to be an offence of the same kind as an offence punishable under section 380 of the said Code, and that an offence punishable under any section of the Indian Penal Code\*, or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence."

Amendment of section  
237, Code of Criminal  
Procedure, 1898.

63. Sub-section (2) of section 237 of the said Code shall be omitted.

64. After sub-section (2) of section 238 of the said Code the following sub-section shall be inserted, namely :—

Amendment of section  
238, Code of Criminal  
Procedure, 1898.

"(2A) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged."

Substitution of new  
section for section 289,  
Code of Criminal Pro-  
cedure 1890.

65. For section 239 of the said Code the following section shall be substituted, namely :—

What persons may be  
charged jointly.

"239. The following persons may be charged and tried together, namely :—

- (a) persons accused of the same offence committed in the course of the same transaction ;
- (b) persons accused of an offence and persons accused of abetment, or of an attempt to commit such offence ;
- (c) persons accused of more than one offence of the same kind within the meaning of section 234 committed by them jointly within the period of twelve months ;



- (d) persons accused of different offences committed in the course of of the same transaction ;
- (e) persons accused of an offence which includes theft, extortion, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence ;
- (f) persons accused of offences under sections 411 and 414 of the Indian Penal Code\* or either of those sections in respect of stolen property the possession of which has been transferred by one offence ; and
- (g) persons accused of any offence under Chapter XII of the Indian Penal Code\* relating to counterfeit coin, and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence ;

and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges."

Amendment of section  
243, Code of Criminal  
Procedure, 1898.

66. In section 243 of the said Code, for the words "shall convict" the words "may convict" shall be substituted.

Amendment of section  
244, Code of Criminal  
Procedure, 1898.

67. In section 244 of the said Code,—

(i) in sub-section (1), before the words "If the accused" the words "If the Magistrate does not convict the accused under the preceding section or" shall be inserted, and to the same sub-section, the following proviso shall be added, namely :—

"Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court"; and

(ii) in sub-section (2), for the words "process to compel the attendance of any witness or the production of" the words "a summons to any witness directing him to attend or to produce" shall be substituted.

Amendment of section  
245, Code of Criminal  
Procedure, 1898.

68. For sub-section (2) of section 245 of the said Code the following shall be substituted, namely :—

"(2) Where the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law."

Amendment of section  
250, Code of Criminal  
Procedure, 1898.

69. In section 250 of the said Code,—

(i) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely :—

“(1) If, in any case instituted upon complaint or upon information given to a police-officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one, or, if such person is not present direct the issue of a summons to him to appear and show cause as aforesaid.

(2) The Magistrate shall record any cause which such complainant or informant may show, and if he is satisfied that the accusation was false and either frivolous or vexatious may, for reasons to be recorded, direct that compensation to such amount not exceeding one hundred rupees or, if the Magistrate is a Magistrate of the third class, not exceeding fifty rupees, as he may determine, be paid by such complainant or informant to the accused or to each or any of them.

(2A) The Magistrate may, by the order directing payment of the compensation under sub-section (2), further order that, in default of payment, the person ordered to pay such compensation shall suffer simple imprisonment for a period not exceeding thirty days,

(2B) When any person is imprisoned under sub-section (2A), the provisions of sections 68 and 69 of the Indian Penal Code\* shall, so far as may be apply.

(2C) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him,

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter’ ;

(ii) in sub-section (3), for the word and figure “sub-section (1)” the word and figure “sub-section (2)” shall be substituted, and for the words “to an accused person” the following shall be substituted, namely :—

“or has been so ordered by any other Magistrate to pay compensation exceeding fifty rupees.”

(iii) to sub-section (4) after the words “appeal has been decided” the following shall be added, namely :—

“and, where such order is made in a case which is not so subject to appeal, the compensation shall not be paid before the expiration of one month from the date of the order” ; and

(iv) sub-section (5) shall be omitted.

Amendment of section 252, Code of Criminal Procedure, 1898.

70. To sub-section (1) of section 252 of the said Code the following proviso shall be added, namely :—

“Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court.”

Insertion of new section 255A in the Code of Criminal Procedure 1898.

71. After section 255 of the said Code the following section shall be inserted, namely :—

“255A. In a case where a previous conviction is charged under the provisions of section 221, sub-section (7), and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused under section 255, sub-section (2), or section 258, take evidence in respect of the alleged previous conviction, and shall record a finding thereon.”

72 In sub-section (1) of section 256 of the said Code, after the words “to state” the words “at the commencement of the next hearing of the case or, if the Magistrate for reasons to be recorded in writing so thinks fit, forthwith” shall be inserted.

Amendment of section 256, Code of Criminal Procedure, 1898

73 For sub-section (2) of section 258 of the said Code the following sub-section shall be substituted, namely :—

Amendment of section 258 Code of Criminal Procedure, 1898.

“(2) Where in any case under this Chapter the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law.”

74. In section 259 of the said Code, after the words “and the offence may be lawfully compounded” the words “or is not a cognizable offence” shall be inserted.

Amendment of section 259, Code of Criminal Procedure, 1898,

75. In section 261 of the said Code,—

Amendment of section 261 Code of Criminal Procedure, 1898.

(i) in clause (a), for the word and figures “and 447”, “the figures and word “447 and 504” shall be substituted : and

(ii) to clause (b), after the words ‘one month.’ the words ‘with or without fine “shall be added

**76.** To section 256 of the said Code, after the words "for the purposes of this Chapter," the words "and of Chapter XVIII" shall be added.

Amendment of section 256, Code of Criminal Procedure, 1898.

**77.** In the third proviso to section 276 of the said Code, for the words "in the presidency-towns" the words "in a trial before any High Court in the town which is the usual place of sitting of such High Court" shall be substituted.

Amendment of section 276, Code of Criminal Procedure, 1898.

**78.** In section 288 of the said Code,—

Amendment of section 288, Code of Criminal Procedure, 1898.

(i) for the words "duly taken in the presence of the accused before the committing Magistrate" the words "duly recorded in the presence of the accused under Chapter XVIII" shall be substituted ; and

(ii) after the words "as evidence in the case," the words "for all purposes subject to the provisions of the Indian Evidence Act, 1872," shall be added.

Substitution of new section for section 292, Code of Criminal Procedure, 1898.

**79.** For section 292 of the said Code that following section shall be substituted, namely :—

"292. The prosecutor shall be entitled to reply—

Prosecutor's right of reply.

(a) if the accused or any of the accused adduces any oral evidence ; or

(b) with the permission of the Court, on a point of law ; or

(c) with the permission of the Court, when any document which does not need to be proved is produced by any accused person after he enters on his defence :

Provided that, in the case referred to in clause (c) the reply shall, unless the Court otherwise permits, be restricted to comment on the document so produced."

**80.** In sub-section (2) of section 306 of the said Code after the word "shall" where it occurs for the second time, the words "unless he proceeds in accordance with the provisions of section 562" shall be inserted.

Amendment of section 306, Code of Criminal Procedure, 1898.

**81.** In section 307 of the said Code,—

Amendment of section 307, Code of Criminal Procedure, 1898.

(1) in sub-section (1)

(i) for the words "the accused" the words "any accused person" shall be substituted ;

(ii) after the words "to submit the case" the words "in respect of such accused person" shall be inserted ; and

(iii) after the words "considers to have been committed," the following shall be added, namely :—

"and in such case, if the accused is further charged under the provisions of section 310, shall proceed to try him on such charge as if such verdict had been one of conviction" ; and

(2) in sub-sections (2) and (3), for the words "the accused" wherever they occur, the words "such accused" shall be substituted.

**82.** In section 309 of the said Code,—

Amendment of section  
309, Code of Criminal  
Procedure, 1898.

(i) in sub-section (1), after the word "orally" the following shall be inserted, namely :—

"on all the charges on which the accused has been tried," and after the words "such opinion" the following shall be inserted, namely :—

"and for that purpose may ask the assessors such questions as are necessary to ascertain what their opinions are. All such questions and the answers to them shall be recorded" ; and

(ii) in sub-section (3), after the word "shall" the words "unless he proceeds in accordance with the provisions of section 562" shall be inserted.

Substitution of new section for section 310, Code of Criminal Procedure, 1898.

**83.** For section 310 of the said Code the following section shall be substituted, namely :—

"310. In the case of a trial by a jury or with the aid of assessors when the accused is charged with an offence and further charged that he is by reason of a previous conviction liable to enhanced punishment or to punishment of a different kind for such subsequent offence, the procedure prescribed by the foregoing provisions of this Chapter shall be modified as follows, namely :—

(a) Such further charge shall not be read out in Court and the accused shall not be asked to plead thereto, nor shall the same be referred to by the prosecution, or any evidence adduced thereon unless and until,

(i) he has been convicted of the subsequent offence, or

(ii) the jury have delivered their verdict, or the opinions of the assessors have been recorded, on the charge of the subsequent offence.

- (b) In the case of a trial held with the aid of assessors, the Court may, in its discretion, proceed or refrain from proceeding with the trial of the accused on the charge of the previous conviction."

**84.** In sub-section (1) of section 315 of the said Code, for the words "in each presidency-town" the words "in the town which is the usual place of sitting of each High Court" shall be substituted, and for the words "at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries," the words "as many of those who are liable to serve on special or common juries respectively as the Clerk of the Crown considers necessary" shall be substituted.

**85.** In section 316 of the said Code, for the words "presidency-towns" the words "town which is the usual place of sitting of such High Court" shall be substituted.

**86.** In section 337 of the said Code, —

Amendment of section  
337, Code of Criminal  
Procedure, 1898.

(1) for sub-section (1) the following sub-sections shall be substituted, namely, —

"(1) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment which may extend to ten years, or any offence punishable under section 211 of the Indian Penal Code\* with imprisonment which may extend to seven years, or any offence under any of the following sections of the Indian Penal Code\*, namely, sections 216A, 369, 401, 435 and 477A, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or any Magistrate of the first class may, at any stage of the investigation or inquiry into, or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor in the commission thereof:

Provided that, where the offence is under inquiry or trial, no Magistrate of the first class other than the District Magistrate shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the sanction of the District Magistrate has been obtained to the exercise thereof.

(1A) Every Magistrate who tenders a pardon under sub-section (1) shall record his reasons for so doing, and shall, on application made by the accused, furnish him with a copy of such record,

Provided that the accused shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost” ;

(ii) in sub-section (2), for the words “the case” the words “the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any,” shall be substituted ;

(iii) after sub-section (2) the following sub-section shall be inserted, namely :—

“(2A) In every case where a person has accepted a tender of pardon and has been examined under sub-section (2) the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are reasonable grounds for believing that the accused is guilty of an offence, commit him for trial to the Court of Session or High Court, as the case may be”,

(iv) in sub-section (3), for the words “if not on bail” the words “unless he is already on bail” shall be substituted, and the words “by the Court of Session or High Court, as the case may be,” shall be omitted ; and

(v) sub-section (4) shall be omitted.

87. (1) In sub-section (1) of section 339 of the said Code, after the words and figures “section 338, and” the words “the Public Prosecutor certifies that in his opinion” shall be inserted ; for the words “he may be” the words “such person may be” shall be substituted ; and to the said sub-section, the following proviso shall be added, namely :—

“Provided that such person shall not be tried jointly with any of the other accused, and that he shall be entitled to plead at such trial that he has complied with the conditions upon which such tender was made ; in which case it shall be for the prosecution to prove that such conditions have not been complied with.”

(2) In sub-section (2) of the same section, for the words “when the pardon has been forfeited under this section” the words “at such trial” shall be substituted.

88. After section 339 of the said Code the following sections shall be inserted, namely :—

Insertion of new section 336A in the Code of Criminal Procedure, 1898.

“339A. (1) The Court trying under section 339 a person who has accepted a tender of pardon shall—

Procedure in trial of person under section 339.

(a) if the Court is a High Court or Court of Session, before the charge is read out and explained to the accused under section 271, sub-section (1), and

(b) if the Court is the Court of a Magistrate, before the evidence of the witnesses for the prosecution is taken,

ask the accused whether he pleads that he has complied with the conditions on which the tender of the pardon was made.

(2) If the accused does so plead, the Court shall record the plea and proceed with the trial, and the jury, or the Court with the aid of the assessors, or the Magistrate, as the case may be, shall before judgment is passed in the case, find whether or not the accused has complied with the conditions of the pardon, and, if it is found that he has so complied, the Court shall, notwithstanding anything contained in this Code, pass judgment of acquittal."

89. For section 340 of the said Code the following section shall be substituted, namely :—

Substitution of new  
section for section 340,  
Code of Criminal Pro-  
cedure, 1898.

"340. (1) Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code in any such Court, may of right be defended by a pleader.  
Right of person against  
whom proceedings are  
instituted to be defended  
and his competency to be  
a witness.

(2) Any person against whom proceedings are instituted in any such Court under section 107, or under Chapter X, Chapter XI, Chapter XII or Chapter XXXVI, or under section 552, may offer himself as a witness in such proceedings."

90. In section 345 of the said Code,—

Amendment of section  
345, Code of Criminal  
Procedure, 1898.

(i) in sub-section (1), for the word "described" the word "specified" shall be substituted, and to the table in that sub-section, after the entry relating to criminal intimidation, the following entry shall be added, namely :—

Act caused by making a person believe that he will be an object of divine displeasure.	508	The person against whom the offence was committed.
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(ii) for sub-section (2) the following sub-section shall be substituted, namely :—

"(2) The offences punishable under the sections of the Indian Penal Code specified in the first two columns of the table next following may with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that table :—



Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
Voluntarily causing hurt by dangerous weapons or means.	324	The person to whom hurt is caused.
Voluntarily causing grievous hurt.	325	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation.	335	Ditto.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto.
Wrongfully confining a person for three days or more.	343	The person confined.
Wrongfully confining a person in secret.	346	Ditto.
Assault or Criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Dishonest misappropriation of property.	403	The owner of the property misappropriated.
Cheating . . . . .	417	The person cheated.
Cheating a person whose interest the offender was bound, by law or by legal contract, to protect.	418	Ditto.
Cheating by personation.	419	Ditto.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	Ditto.

Offence.	Sections of the India Penal Code applicable.	Persons by whom offence may be compounded.
Mischief by injury to work of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to a private person.	430	The person to whom the loss or damage is caused.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in passession of the house trespassed upon.
Using a false trade or property mark.	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.
Knowingly selling, or exposing or possessing for sale or for trade or manufacturing purpose, goods marked with a counterfeit trade or property mark.	486	Ditto.
Marrying again during the lifetime of a husband or wife.	494	The husband or wife of the person so marrying.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it is intended to insult or whose privacy is intruded upon.

(iii) in sub-section (4), for the words "a minor" the words "under the age of eighteen years or is" shall be substituted, and after the word "may" the words "with the permission of the Court" shall be inserted ;

(iv) after sub-section (5) the following sub-section shall be inserted, namely:—

"(5A) A High Court acting in the exercise of its powers of revision under section 439 may allow any person to compound any offence which he is competent to compound under this section" ; and

(v) to sub-section (6), after the word "accused" the words "with whom the offence has been compounded" shall be added.

Amendment of section 347  
Code of Criminal Procedure, 1898.

91. In sub-section (2) of section 347 of the said Code, the words "stop further proceedings and" shall be omitted.

92. (1) Section 348 of the said Code shall be re-numbered 348 (1), and in the said section, as re-numbered, after the word "shall" the words "if the Magistrate before whom the case is pending is satisfied that there are sufficient grounds for committing the accused" shall be inserted, and for the words "before whom the proceedings are pending" the words "is competent to try the case and" shall be substituted.

(2) In the proviso to the same section, as re-numbered, for the words "the District Magistrate" the words "any Magistrate in the district" shall be substituted.

(3) To the same section, as re-numbered, the following sub-section shall be added, namely:—

"(2) When any person is committed to the Court of Session or High Court under sub-section (1), any other person accused jointly with him in the same inquiry or trial shall be similarly committed, unless the Magistrate discharges such other person under section 209."

Amendment of section 349.  
Code of Criminal Procedure, 1898.

93. After sub-section (1) of section 349 the following sub-section shall be inserted, namely:—

"(1A) When more accused than one are being tried together and the Magistrate considers it necessary to proceed under sub-section (1) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to the District Magistrate or Sub-divisional Magistrate."

94 To sub-section (2) of section 350 of the said Code, after the figures "346", the words "or in which proceedings have been submitted to a superior Magistrate under section 349" shall be added, and, after the same sub-section the following sub-section shall be added, namely:—

"(3) When a case is transferred under the provisions of this Code from one Magistrate to another, the former shall be deemed to cease to exercise jurisdiction therein, and to be succeeded by the latter within the meaning of sub-section (1).

Insertion of new section 350A in the Code of Criminal Procedure, 1898.

95. After section 350 of the said Code the following section shall be inserted, namely:—

"350A. No order or judgment of a Bench of Magistrates shall be invalid by reason only of a change having occurred in the constitution of the Bench in any case in which the Bench by which such order or judgment is passed is duly constituted under sections 15 and 16, and the Magistrates constituting the same have been present on the Bench throughout the proceedings.

Changes in constitution of Benches,

Amendment of section  
356, Code of Criminal  
Procedure, 1898.

**96.** In section 356 of the said Code, after sub-section (2), the following sub-section shall be inserted, namely :—

“(2A) When the evidence of such witness is given in any other language, not being English, than the language of the Court, the Magistrate or Sessions Judge may take it down in that language with his own hand, or cause it to be taken down in that language in his presence and hearing and under his personal direction and superintendence, and an authenticated translation of such evidence in the language of the Court or in English shall form part of the record.”

Amendment of section  
362, Code of Criminal  
Procedure, 1898.

**97.** In section 362 of the said Code,—

(i) in sub-section (1), for the words “in which a Presidency Magistrate imposes a fine exceeding two hundred rupees, or imprisonment for a term exceeding six months he” the words “tried by a Presidency Magistrate in which an appeal lies, such Magistrate” shall be substituted ;

(ia) after sub-section (2) the following sub-section shall be inserted :—

“(2A) In every case referred to in sub-section (1), the Magistrate shall make a memorandum of the substance of the examination of the accused. Such memorandum shall be signed by the Magistrate with his own hand, and shall form part of the record”;

(ii) to sub-section (3), after the word “sentence” the words “unless they are sentences of imprisonment ordered to run concurrently” shall be added ; and

(iii) after sub-section (3) the following sub-section shall be added, namely :—

“(4) In cases other than those specified in sub-section (1), it shall not be necessary for a Presidency Magistrate to record the evidence or frame a charge.”

Amendment of section  
364, Code of Criminal  
Procedure, 1898.

**98.** In sub-section (4) of section 364 of the said Code, after the figures “263” the words and figures “or section 362, sub-section (2A),” shall be inserted.

**99.** In section 365 of the said Code, for the word “may” the word

Amendment of section  
365, Code of Criminal  
Procedure, 1898.

“shall” shall be substituted, and for the words “and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed” the words “and the evidence shall be taken down in accordance with such rule” shall be substituted.

Amendment of section 367  
Code of Criminal Proce-  
dure, 1898.

**100.** In section 367 of the said Code,—

(1) in sub-section (1), after the words “presiding officer of the Court” the words “or from the dictation of such presiding officer” shall be inserted ;

(ii) to the same sub-section the following words shall be added, namely :—

“and where it is not written by the presiding officer with his own hand, every page of such judgment shall be signed by him”; and

(iii) after sub-section (5) the sub-section shall be added namely :—

“(6) For the purposes of this section, an order under section 118 or section 123, sub-section (3), shall be deemed to be a judgment.”

**101.** In section 369 of the said Code, for the words “No Court other than a High Court” the words “Save as otherwise provided by this Code or by any other law for the time being in force or, in the case of a High Court established by Royal Charter, by the Letters Patent of such High Court, no Court” shall be substituted; and the words and figures “as provided in sections 395 and 484 or” shall be omitted.

Amendment of section 369,  
Code of Criminal Procedure,  
1898.

Substitution of new section  
for section 386, Code  
of Criminal Procedure,  
1898.

**102.** For section 386 of the said Code the following section shall be substituted, namely :—

“386. (1) Whenever an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may—

Warrant for levy of fine.

(a) issue a warrant for the levy of the amount by attachment and sale of any moveable property belonging to the offender ;

(b) issue a warrant to the Collector of the District authorising him to realise the amount by execution according to civil process against the moveable or immoveable property, or both, of the defaulter :

Provided that, if the sentence directs that in default of payment of the fine the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless for special reasons to be recorded in writing it considers it necessary to do so.

(2) The Local Government may make rules regulating the manner in which warrants under sub-section (1), clause (a), are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.

(3) Where the Courts issue a warrant to the Collector under sub-section (1), clause (b), such warrant shall be deemed to be a decree, and the Collector to be the decree-holder, within the meaning of the Code of Civil Procedure, 1908, and the nearest Civil Court by which any decree for a like amount could be executed shall, for the purposes of the said Code, be deemed to be the Court which passed the decree, and all the provisions of that Code as to execution of decrees shall apply accordingly.

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.”

**103.** In section 387 of the said Code, for the words "Such warrant" the words "A warrant issued under section 386, sub-section (1), clause (a), by any Court" shall be substituted, and for the word "distress" the word "attachment" shall be substituted.

Amendment of section  
387 Code of Criminal  
Procedure 1898.

**104.** In sub-section (1) of section 388 of the said Code,—

Amendment of section  
388, Code of Criminal  
Procedure, 1898.

(i) for the words "and the Court issues a warrant under section 386, it" the words "the Court" shall be substituted ; and

(ii) for the words 'on the day appointed for the return to such warrant, such day not being' the words "on a date not" shall be substituted.

**105.** In section 395 of the said Code,—

Amendment of section  
395, Code of Criminal  
Procedure, 1898.

(i) in sub-section (1), after the words "twelve months" the words "or to a fine not exceeding five hundred rupees" shall be inserted ; and

(ii) in sub-section (2), after the words "for a term" the words "or a fine of an amount" shall be inserted.

Amendment of section  
397, Code of Criminal  
Procedure, 1898.

**106.** In section 397 of the said Code,—

(i) after the words "to which he has been previously sentenced" the words "unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence" shall be inserted ; and

(ii) after the proviso the following further proviso shall be added, namely :—

"Provided, further, that where a person who has been sentenced to imprisonment by an order under section 123 in default of furnishing security is whilst undergoing such sentence sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately."

Amendment of section  
401, Code of Criminal  
Procedure, 1898.

**107** In section 401 of the said Code,—

(i) to sub-section (2), after the words "together with his reasons for such opinion" the following words shall be added, namely :—

"and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists" ;

(ii) after sub-section (4) the following subsection shall be inserted, namely :—

“(4A) The provisions of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Code or of any other law, which restricts the liberty of any person or imposes any liability upon him or his property” ;

(iii) in sub-section (5), for the words “Her Majesty” the words “His Majesty or of the Governor General when such right is delegated to him” shall be substituted ; and

(ii) after sub-section (5) the following sub-section shall be inserted, namely :—

“(5A) Where a conditional pardon is granted by His Majesty or, in virtue of any powers delegated to him, by the Governor General, any condition thereby imposed, of whatever nature, shall be deemed to have been imposed by a sentence of a competent Court under this Code and shall be enforceable accordingly.”

**108** Section 402 of the said Code shall be re-numbered section 402 Amendment of section (1), and, to the said section, as re-numbered, the following sub-section shall be added, namely :—  
402, Code of Criminal Procedure, 1898.

“(2) Nothing in this section shall affect the provisions of section 54 or section 55 of the Indian Penal Code.”

Amendment of section 406, Code of Criminal Procedure, 1898.

**109**, For section 406 of the said Code, the following section shall be substituted, namely :—

Appeal from order requiring security for keeping the peace or for good behaviour.

“406. Any person who has been ordered under section 118 to give security for keeping the peace or for good behaviour may appeal against such order—

(a) if made by a Presidency Magistrate, to the High Court ;

(b) if made by any other Magistrate, to the Court of Session :

Provided that the Local Government may, by notification in the local official Gazette, direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate and not to the Court of Session :

Provided, further, that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (3A) of section 123.”

Insertion of new section 406A in the Code of Criminal Procedure, 1898.

**110**. After section 406 of the said Code the following section shall be inserted, namely :—

**"406A.** Any person aggrieved by an order refusing to accept or reject-  
Appeal from order refusing a surety under section 122 may appeal  
sing to accept or rejecting a against such order,—  
surety.

- (a) if made by a Presidency Magistrate, to the High Court ;
- (b) if made by the District Magistrate, to the Court of Session ; or
- (c) if made by a Magistrate other than the District Magistrate, to the District Magistrate."

**III.** In sub-section (1) of section 407 of the said Code, after the figures "349," the words and figures "or in respect of whom an order has been made or a sentence has been passed under section 380" shall be inserted.

Amendment of section  
407, Code of Criminal  
Procedure, 1898.

**II2.** In section 408 of the said Code,—

Amendment of section  
408, Code of Criminal  
Procedure, 1898.

(i) after the figures "349" the words and figures "or in respect of whom an order has been made or a sentence has been passed under section 380" shall be inserted ; and

(ii) in clause (b) of the proviso, after the word "appeal" the following words shall be inserted, namely :—

"of all or any of the accused convicted at such trial."

**II3.** To section 409 of the said Code the following proviso shall be added, namely :—

Amendment of section  
409, Code of Criminal  
Procedure, 1898.

"Provided that an Additional Sessions Judge shall hear only such appeals as the Local Government may, by general or special order, direct or as the Sessions Judge of the division may make over to him."

**114.** After section 415 of the said Code the following section shall be inserted.  
namely :—

Insertion of new section  
415A in the Code of  
Criminal Procedure, 1898.

**"415A.** Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial, and an appealable Judgment or order has been passed in respect of any of such persons, all or any of the persons convicted at such trial shall have a right of appeal."

Special right of appeal  
in certain cases.

**II5.** Section 418 of the said Code shall be re-numbered section 418 (1), and, to the said section, as re-numbered, the following sub-section shall be added, namely :—

Amendment of section  
418, Code of Criminal  
Procedure, 1898.

**"(2)** Notwithstanding anything contained in sub-section (1) or in section 423, sub-section (2) when, in the case of a trial by jury, any person is sentenced to death, any other person convicted in the same trial with the person so sentenced may appeal on a matter of fact as well as a matter of law,"



Amendment of section  
435, Code of Criminal  
Procedure, 1898.

**116.** In section 435 of the said Code,—

(i) to sub-section (1), after the words “proceedings of such inferior Court,” the following words shall be added, namely :—

“and may, when calling for such record, direct that the execution of any sentence be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record” ;

(ii) after the same sub-section the following Explanation shall be added, namely :—

“*Explanation*—All Magistrates, whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 437 ;” and

(ii) sub-section (3) shall be omitted.

**117.** Sections 436 and 437 of the said Code shall be re-numbered

Transposition of section  
436 and 437 and amend-  
ment of section 437, Code  
of Criminal Procedure  
1898.

437 and 436, respectively, and, in the latter section, as re-numbered, —

(a) for the words “accused person” the words “person accused of an offence” shall be substituted ; and

(b) after the words “discharged” the following proviso shall be added, namely :—

“Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of shewing cause why such direction should not be made.”

**118.** To sub-section (2) of section 438 of the said Code, for the

Amendment of section  
438, Code of Criminal  
Procedure, 1898.

words “by the Sessions Judge” the words “by or under any general or special order of the Sessions Judge” shall be substituted,

**119.** In sub-section (1) of section 439 of the said Code, the figures

Amendment of section  
439, Code of Criminal  
Procedure, 1898.

“195” shall be omitted, and after sub-section (5) of the same section the following sub-section shall be added, namely :—

“(6) Notwithstanding anything contained in this section, any convicted person to whom an opportunity has been given under sub-section (2) of showing cause why his sentence should not be enhanced shall, in showing cause, be entitled also to show cause against his conviction,”

Amendment of section  
464, Code of Criminal  
Procedure, 1898.

**120.** In section 464 of the said Code,—

(i) after sub-section (1) the following sub-section shall be inserted, namely :—

“(1A) Pending such examination and inquiry, the Magistrate may deal with the accused in accordance with the provisions of section 466” ; and

(ii) in sub-section (2), after the word “he” the words “shall record a finding to that effect and” shall be inserted.

**121.** In sub-section (1) of section 465 of the said Code, for the Amendment of section words "and if satisfied of the fact shall pass 465, Code of Criminal judgment accordingly, and thereupon the trial Procedure, 1898. shall be postponed" the following words shall be substituted, namely :—

"and if the jury or Court, as the case may be, is satisfied of the fact, the Judge shall record a finding to that effect, and shall postpone further proceedings in the case and the jury, if any, shall be discharged."

**122.** In section 466 of the said Code,—

Amendments of section  
466, Code of Criminal  
Procedure, 1898.

(i) in sub-section (1), for the words, "if the cases is one in which bail may be taken," the words "whether the case is one in which bail may be taken or not" shall be substituted ; and

(ii) for sub-section (2) the following sub-section shall be substituted, namely :—

(2) If the case is one in which, in the opinion of the Magistrate or Court, bail should not be taken, or if sufficient security is not given, the Magistrate or Court, as the case may be, shall order the accused to be detained in safe custody in such place and manner as he or it may think fit, and shall report the action taken to the local Government :

Provide that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the Local Government may have made under the Indian Lunacy Act, 1912.\*

**123.** In sub-section (2) of section 468 of the said Code, the word Amendment of section "person" shall be omitted, and the following 468, Code of Criminal words shall be added after the words "as the case Procedure, 1898. may be," namely :—

"and if the accused is found to be of unsound mind and incapable of making his defence, shall deal with such accused in accordance with the provisions of section 466."

**124.** (1) In sub-section (1) of section 471 of the said Code,—

Amendment of section  
471, Code of Criminal  
Procedure 1898.

(i) for the words "such judgment" the words "the finding" shall be substituted ;

(ii) for the word "kept" the word "detained" shall be substituted ; and

(iii) after the words "Court thinks fit," the words "and shall report the action taken to the Local Government" shall be inserted.

(2) After sub-section (1) of the same section the following proviso shall be inserted, namely :—

"Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the Local Government may have made under the Indian Lunacy Act, 1912."

(3) Sub-section (4) of the same section shall be re-numbered (2).

**125.** In section 473 of the said Code, for the word "confined" the word "detained" shall be substituted, and for the words "Such Inspector-General or visitors" the words "in the case of a person detained in a jail, the Inspector-General of Prisons, or, in the case of a person detained in a lunatic asylum, the visitors of such asylum or any two of them" shall be substituted.

**126.** In section 474 of the said Code, for the word "confined" the word "detained" shall be substituted, and for the words "discharged" (wherever it occurs) and "discharge" the words "released" and "release," respectively, shall be substituted.

**127.** For section 475 of the said Code the following section shall be substituted, namely :—

**"475. (1)** Whenever any relative or friend of any person detained under the provisions of section 466 or section 471 desires that he shall be delivered to his care and custody, the local Government may, upon the application of such relative or friend and on his giving security to the satisfaction of such Local Government that the person delivered shall—

- (a) be properly taken care of and prevented from doing injury to himself or to any other person, and
- (b) be produced for the inspection of such officers, and at such times and places, as the Local Government may direct and
- (c) in the case of a person detained under section 466, be produced when required before such Magistrate or Court, order such person to be delivered to such relative or friend.

(2) If the person so delivered is accused of any offence the trial of which has been postponed by reason of his being of unsound mind and incapable of making his defence, and the inspecting officer referred to in sub-section (1), clause (b), certifies at any time to the Magistrate or Court that such person is capable of making his defence, such Magistrate or Court shall call upon the relative or friend to whom such accused was delivered to produce him before the Magistrate or Court; and, upon such production, the Magistrate or Court shall proceed in accordance with the provisions of section 468, and the certificate of the inspecting officer shall be receivable as evidence."

**128.** For section 476 of the said Code the following sections shall be substituted, namely :—

**"476. (1)** When any Civil, Revenue or Criminal Court is, whether on application made to it in this behalf or otherwise, of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence

referred to in section 195, sub-section (1), clause (b) or clause (c), which appears to have been committed in or in relation to a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary record, a finding to that effect and make a complaint thereof in writing signed by the presiding officer of the Court, and shall forward the same to Magistrate of the first class having jurisdiction, and may take sufficient security for the appearance of the accused before such Magistrate or if the alleged offence is non-bailable may, if it thinks necessary so to do, send the accused in custody to such Magistrate, and may bind over any person to appear and give evidence before such Magistrate.

For the purposes of this sub-section, a Chief Presidency Magistrate shall be deemed to be a Magistrate of the first class.

(2) Such Magistrate shall thereupon proceed according to law and as if upon complaint made under section 200.

(3) Where it is brought to the notice of such Magistrate, or of any other Magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage adjourn the hearing of the case until such appeal is decided.

476A. The power conferred on Civil, Revenue and Criminal Courts by section 476, sub-section (1), may be exercised, Superior Court may complain where sub-ordinate Court has omitted to do so, in respect of any offence referred to therein and alleged to have been committed in or in relation to any proceeding in any such Court, by the Court to which such former Court is subordinate within the meaning of section 195, sub-section (3) in any case in which such former Court has neither made a complaint under section 476 in respect of such offence nor rejected an application for the making of such complaint ; and, where the superior Court makes such complaint, the provisions of section 476 shall apply accordingly.

476B. Any person on whose application any Civil, Revenue or Criminal Court has refused to make a complaint under section 476 or section 476A, or against whom such a complaint has been made, may appeal to the Court to which such former Court is subordinate within the meaning of section 195, sub-section (3), and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint or, as the case may be, itself make the complaint which the subordinate Court might have made under section 476, and if it makes such complaint the provisions of that section shall apply accordingly."

Repeal of section 477, Code of Criminal Procedure, 1898.

129. Section 477 of the said Code shall be omitted.

Amendment of section 487, Code of Criminal procedure.

130. In section 487 of the said Code, the figures "477" shall be omitted.

**131. In section 488 of the said Code,—**

Amendment of section 488,  
Code of Criminal Procedure  
1898.

(i) in sub-section (1), for the word "fifty" the words "one hundred" shall be substituted ;

(ii) in sub-section (3), for the words "wilfully neglects" the words "fails without sufficient cause" shall be substituted ;

(iii) to the same sub-section the following proviso shall be added, namely :—

"Provided, further, that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due" ;

(iv) sub-section (7) shall be omitted ; and

(v) sub sections (8) and (9) shall be re-numbered (7) and (8), respectively and, in the last-named sub-section, for the words "The accused may be proceeded against" the words "Proceedings under this section may be taken against any person" shall be substituted.

**132. (1)** Section 489 of the said Code shall be re-numbered as sub-section (1) of section 489 and, in that sub-section, as renumbered, for the word "fifty" the words "one hundred" shall be substituted.

(2) To the same section the following sub-section shall be added, namely :—

"(2) Where it appears to the Magistrate that, in consequence of any decision of a competent Civil Court, any order made under section 488 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly."

**133. (1)** In sub-section (2) of section 492 of the said Code, the words "In any case committed for trial to the Court of Session" shall be omitted, and for the words "such case" the words "any case" shall be substituted.

(2) In the same sub-section, for the words "the rank of Assistant District Superintendent" the words "such rank as the Local Government may prescribe in this behalf" shall be substituted.

**134. Section 494 of the said Code,—**

Amendment of section  
494, Code of Criminal  
Procedure, 1898.

(i) the words appointed by the Governor General in Council or the Local Government" shall be omitted ;

(ii) after the words "prosecution of any person" the words "either generally or in respect of any one or more of the offences for which he is tried" shall be inserted ;

(iii) after the word "discharged" in clause (a), the words "in respect of such offence or offences" shall be inserted ; and

(iv) after the word "acquitted" in clause (b), the words "in respect of such offence or offences" shall be added.

Amendment of section 496, Code of Criminal Procedure, 1898. **135.** To section 496 of the said Code the following proviso shall be added, namely ;—

“Provided, further, that nothing in this section shall be deemed to affect the provisions of section 107, sub section (4), or section 117, sub-section (3).”

**136** In section 497 of the said Code,—

Amendment of section 497, Code of Criminal Procedure, 1898.

(i) in sub-section (1), for the words “the offence of which he is accused” the words “an offence punishable with death or transportation for life” shall be substituted ; and, to the same sub-section, the following proviso shall be added, namely :—

“Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail” ;

(ii) in sub-section (2), for the words “such offence” the words “a non-bailable offence” shall be substituted ;

(iii) after sub section (2) the following sub-sections shall be inserted, namely :—

“(3) An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2) shall record in writing his or its reasons for so doing.

(4) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered.” ; and

(iv) for sub-section (3) the following sub-section shall be substituted, namely :—

“(5) A High Court or Court of Session and, in the case of a person released by itself, any other Court may cause any person who has been released under this section to be arrested and may commit him to custody.”

**137.** (1) In sub-section (1) of section 504 of the said Code, for the words “the said Presidency Magistrate” the words “such Presidency Magistrate” shall be substituted. Amendment of section 504, Code of Criminal Procedure, 1898.

(2) After the same sub-section the following sub-section shall be inserted, namely :—

“(1A) When a commission is issued under this section to a Chief Presidency Magistrate, he may delegate his powers and duties under the commission to any Presidency Magistrate subordinate to him.”

**138.** In sub-section (1) of section 505 of the said Code, after the word “directed” the words “or to whom the duty of executing such commission has been delegated” shall be inserted. Amendment of section 505, Code of Criminal Procedure, 1898.

**139.** In section 514 of the said Code,—

Amendment of section  
514, Code of Criminal  
Procedure, 1898.

(i) in sub-section (3), for the word “distress” the word “attachment” shall be substituted ; and

(ii) in sub-section (6), the words “but the party who gave the bond may be required to find a new surety” shall be omitted, and, after the said sub-section, the following sub-section shall be inserted, namely :—

“(7) When any person who has furnished security under section 106 or section 118 or section 562 is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond under section 514B, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved.”

Insertion of new sections 514A and 514B in the Code of Criminal Procedure, 1898.

**140.** After section 514 of the said Code the following sections shall be inserted, namely :—

“514A. When any surety to a bond under this Code becomes insolvent or dies, or when any bond is forfeited under the provisions of section 514, the Court, by whose order such bond was taken, or a Presidency Magistrate or Magistrate of the first class, may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order, and, if such security is not furnished, such Court of Magistrate may proceed as if there had been a default in complying with such original order.

514B. When the person required by any Court or officer to execute a bond is a minor, such Court or officer may accept, in lieu thereof, a bond executed by a surety or sureties only.”

**141** In Chapter XLIII of the said Code, before section 517 the following section shall be inserted, namely :—

Insertion of new section 516A in the Code of Criminal Procedure, 1898.

“516A. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy or natural decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.”

**142** In section 517 of the Said Code,—

Amendment of section  
517, Code of Criminal  
Procedure, 1898.

(i) in sub-section (1), after the word "disposal" the words "by destruction, confiscation, or delivery to any person claiming to be entitled to possession thereof or otherwise" shall be inserted ;

(ii) for sub-section (3) the following sub-section shall be substituted, namely :—

"(3) When an order is made under this section such order shall not, except where the property is livestock or subject to speedy and natural decay, and save as provided by sub-section (4), be carried out for one month, or, when an appeal is presented, until such appeal has been disposed of " ; and

(iii) after sub-section (3) the following sub-section shall be inserted, namely :—

"(4) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of sub-section (1) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court, engaging to restore such property to the Court if the order made under this section is modified or set aside on appeal."

**143.** In section 522 of the said Code,—

Amendment of section  
522, Code of Criminal  
Procedure 1898

(i) in sub-section (1), after the word "force" where it first occurs, the words "or show of force or by criminal intimidation" shall be inserted, and after the word "force," where it occurs for the second time, the words "or show of force or criminal intimidation" shall be inserted, and for the words "such person" the words "the person dispossessed ; shall be substituted ;

(ii) in the same sub-section, after the words "thinks fit" the words "when convicting such person or at any time within one month from the date of the conviction" shall be inserted ; and

(iii) after sub-section (2) the following subsection shall be added, namely :—

(3) An order under this section may be made by any Court of appeal, confirmation, reference or revision."

**144.** In section 525 of the said Code, for the words "or the Magistrate" the words "or if the Magistrate" shall be substituted and after the word "owner" the words "or that the value of such property is less than ten rupees" shall be inserted.

Amendment of section  
525, Code of Criminal  
Procedure, 1898.

Amendment of section  
526, Code of Criminal  
Procedure, 1898.

**145.** In section 526 of the said Code,—



(i) in sub-clauses (ii) of sub-section (1), the word "criminal" before the word "case." and in sub-clause (ii), the word "such" before the word "cases," shall be omitted ;

(ii) in sub-section (5), for the word "convicted" the words "so ordered," shall be substituted, and for the words "the costs of the prosecutor" the words "any amount which the High Court has power under this section to award by way of costs to the person opposing the application" shall be substituted ;

(iii) after sub-section (6) the following sub-section shall be inserted, namely—

"(6A) Where any application for the exercise of the power conferred by this section is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of costs to any person who has opposed the application any expenses reasonably incurred by such person in consequence of the application" ; and

(iv) for sub section (8) the following sub-section shall be substituted, namely :—

"(8) If, in the course of any inquiry or trial, or before the commencement of the hearing of any appeal, the Public Prosecutor, the complainant or the accused notifies to the Court before which the case or appeal is pending his intention to make an application under this section in respect of such case or appeal, the Court shall adjourn the case or post-pone the appeal for such a period as will afford a reasonable time for the application to be made and an order to be obtained thereon.

(9) Notwithstanding anything herein before contained, a Judge presiding in a Court of Session shall not be required to adjourn a trial under sub-section (8) if he is of opinion that the person notifying his intention of making an application under this section has had a reasonable opportunity of making such an application and has failed without sufficient cause to take advantage of it."

**146.** In sub-section (1) of section 527 of the said Code, the word "criminal," where it occurs before the word "case" shall be omitted.

Amendment of section  
527, Code of Criminal  
Procedure, 1898.

**147.** In section 528 of the said Code,—

Amendment of section  
528, Code of Criminal  
Procedure, 1898.

(i) sub-section (1), (2), (3) and (4) shall be re-numbered (2), (3), (5), and (6), respectively, and the following shall be inserted as sub-section (1), namely :—

"(1) Any Sessions Judge may withdraw any case from, or recall any case which he has made over to, any Assistant Sessions Judge subordinate to him" ;

Sessions Judge may  
withdraw cases from  
Assistant Sessions Judge

(ii) after sub-section (3), as re-numbered, the following sub-section shall be inserted, namely :—

“(4) Any Magistrate may recall any case made over by him under section 192, sub-section (2), to any other Magistrate and may inquire into or try such case himself” ; and

(iii) for sub-section (6) as re-numbered, the following sub-section shall be substituted, namely :—

“(6) The head of a village under the Madras Village-police Regulation 1816,\* or the Madras Village-police Regulation, 1821,† is a Magistrate for the purposes of this section.”

**148.** In section 537 of the said Code, —

Amendment of section  
537, Code of Criminal pro-  
cedure, 1898.

(i) clause (b) shall be omitted ;

(ii) the word “want” where it occurs for the second time, shall be omitted ; and

(iii) the Illustration shall be omitted.

**149.** In section 538 of the said Code for the word “distress,” wherever it occurs, the word “attachment” shall be substituted.

Amendment of section  
538, Code of Criminal  
Procedure, 1898.

**150.** After section 539 of the said Code the following sections shall be inserted namely :—

Insertion of new sections  
539A and 539B in the  
Code of Criminal Pro-  
cedure, 1898.

“539A. (1) When any application is made to any Court in the course of any inquiry, trial or other proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

An affidavit to be used before any Court other than a High Court under this section may be sworn or affirmed in the manner prescribed in section 539, or before any Magistrate.

Affidavits under this section shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable grounds to believe to be true, and, in the latter case, the deponent shall clearly state the grounds of such belief.

(2) The Court may order any scandalous and irrelevant matter in an affidavit to be struck out or amended.

**539B. (1)** Any Judge or Magistrate may, at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection.

**(2)** Such memorandum shall form part of the record of the case. If the Public Prosecutor, complainant or accused so desires, a copy of the memorandum shall be furnished to him free of cost :

Provided that, in the case of a trial by jury or with the aid of assessors, the Judge shall not act under this section unless such jury or assessors are also allowed a view under section 293."

**151.** After section 540 of the said Code the following section shall be inserted, namely :—  
Insertion of new section 540A, in the Code of Criminal Procedure, 1898.

**"540A. (1)** At any stage of an inquiry or trial under this Code, where two or more accused are before the Court, if the Judge or Magistrate is satisfied, for reasons to be recorded, that any one or more of such accused is or are incapable of remaining before the Court, he may, if such accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused.

**(2)** If the accused in any such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit, and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately."

**152.** In section 545 of the said Code,—  
Amendment of section 545, Code of Criminal Procedure, 1898.

**(i)** for clause (b) of sub-section (1) the following clause shall be substituted, namely :—

**"(b)** in the payment to any person of compensation for any loss or injury caused by the offence, when substantial compensation is, in the opinion of the Court, recoverable by such person in a Civil Court"; and

**(ii)** to sub-section (1) the following clause shall be added, namely :—

**"(c)** when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to

believe the same to be stolen, in compensating any *bonafide* purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto."

**153.** After section 546 of the said Code the following section shall be inserted, namely :—  
Insertion of new section 546A in the Code of Criminal Procedure, 1898.

"546A. (1) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay to the complainant—  
Order of payment of certain fees paid by complainant in non-cognizable cases.

(a) the fee (if any) paid on the petition of complaint, or for the examination of the complainant, and

(b) any fees paid by the complainant for serving processes on his witnesses or on the accused,

and may further order that, in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days.

(2) An order under this section may also be made by an appellate Court, or by the High Court, when exercising its powers of revision.

**154** In section 547 of the said Code, after the word "Code" the words "and the method of recovery of which is not otherwise expressly provided for" shall be inserted.  
Amendment of section 547, Code of Criminal Procedure, 1898.

**155.** For section 559 of the said Code the following section shall be substituted namely :—  
Substitution of new section for section 559, Code of Criminal Procedure, 1898.

"559. (1) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor in office.  
Provision for powers of Judges and Magistrates being exercised by their successors in office.

(2) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magistrate in a Presidency-town, and the District Magistrate outside such towns, shall determine by order in writing the Magistrate who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate.

(3) When there is any doubt as to who is the successor in office of any Additional or Assistant Sessions Judge the Sessions Judge shall determine by order in writing the Judge who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Additional or Assistant Sessions Judge."

**156.** After section 561 of the said Code the following section shall be inserted, namely :—

Insertion of new section  
561A in the Code of Criminal Procedure, 1898.

**"561A.** Nothing in this Code shall be deemed to limit or affect the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

Saving of inherent power  
of High Court.

**157.** For section 562 of the said Code the following section shall be substituted, namely :—

Substitution of new section for section 562, Code of Criminal Procedure, 1898.

**"562. (1)** When any person not under twentyone years of age is convicted of an offence punishable with imprisonment for not more than seven years, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or transportation for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not extending three years) as the Court may direct, and in the meantime to keep the peace and be of good behaviour :

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by the Local Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class or sub-divisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate. who shall dispose of the case in manner provided by section 380.

(2) An order under this section may be made by any appellate Court or by the High Court when exercising its power of revision.

(3) When an order has been made under this section in respect of any offender, the High Court may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law :

Provided that the High Court shall not under this sub-section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

(4) The provision of sections 122, 126A and 406A shall, so far as may be, apply in the case of surities offered in pursuance of the provisions of this section.

**158.** For section 565 of the said Code the following section shall be substituted, namely :—

Substitution of new section for section 565, Code of Criminal Procedure 1898.

**“565. (1) When any person having been convicted—**

Order for notifying address of previously convicted offender.

(a) by a Court in British India of an offence punishable under section 215, section 489A, section 489B, section 489C, or section 489D of the Indian Penal Code,\* or of any offence punishable under Chapter XII or Chapter XVII of that Code,\* with imprisonment of either description for a term of three years or upwards, or

(b) by a Court or Tribunal in the territories of any Prince or State in India acting under the general or special authority of the Governor General in Council, or of any Local Government, of any offence which would, if committed in British India, have been punishable under any of the aforesaid sections or Chapters of the Indian Penal Code with like imprisonment for a like term, is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by a High Court, Court of Session, Presidency Magistrate, District Magistrate, Subdivisional Magistrate or Magistrate of the first class, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person, also order that his residence and any change of absence from such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

(2) If such conviction is set aside on appeal or otherwise, such order shall become void.

(3) The Local Government may make rules to carry out the provisions of this section relating to the notification of residence or change of or absence from residence by released convicts.

(4) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

(5) Any person against whom an order has been made under this section and who refuses or neglects to comply with any rule so made shall be deemed within the meaning of section 176 of the Indian Penal Code\* to have omitted to give a notice required for the purpose of preventing the commission of an offence.

\* XLV of 1860.

(6) Any person charged with a breach of any such rule may be tried by a Magistrate of competent jurisdiction in the district in which the place last notified by him as his place of residence is situated."

**159.** In Schedule II to the said Code,—

Amendment of Schedule  
II, Code of Criminal  
Procedure, 1898.

(1) in column 1, the figures "405" occurring between the figures "404" and "406" shall be omitted ;

(2) for the first entry in column 3, against section 213, the words "may arrest without warrant" shall be substituted ;

(3) for the entry in column 3, against section 214, the words "shall not arrest without warrant" shall be substituted ;

(4) for the entry in column 3, against section 215, the words "May arrest without warrant" shall be substituted ;

(5) for the entry in column 3, against section 374, the words "Shall not arrest without warrant" shall be substituted ;

(6) for each of the entries in column 5 against sections 118, 119 and 120 occurring opposite the entries "If the offence be not committed" in column 2, the word "Bailable" shall be substituted ; and for the entry in column 5 opposite the entry "120 concealing a design to commit an offence punishable with imprisonment, if the offence be committed" the words "According as the offence concealed is bailable or not" shall be substituted ;

(7) for the entry in column 5, against section 363, the word "Bailable" shall be substituted : and, for the entry in the same column, against section 364, the words "Not bailable" shall be substituted ;

(8) for the entry in column 5, against section 477A, the word "Bailable" shall be substituted ;

(9) for the entry in column 5, against section 495, the word "Bailable" shall be substituted ;

(10) for each of the entries in column 6, against sections 343, 346 and 357, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted ; and, for each of the entries in the same column, against sections 344 and 347, the words "Not compoundable" shall be substituted ;

(11) for the entry in column 6, against section 403, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted ;

(12) for each of the entries in column 6 against sections 417, 418, 419 and 420, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted ;

(13) for the entry in column 6, against section 430, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted ; and for the entry in the same column against section 431, the words "Not compoundable" shall be substituted ;

(14) for the first entry in column 6, against section 451, the following shall be substituted, namely :—"Compoundable when permission is given by the Court before which the prosecution is pending" ; and, for the second entry in that column, against the same section, the words "Not compoundable" shall be substituted ;

(15) for the entry in column 6, against section 482, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted ; and, for the entry in the same column, against section 484, the words "Not compoundable" shall be substituted :

(16) for the entry in column 6, against section 486, the words "Compoundable with permission of the Court before which the prosecution is pending" shall be substituted ; and, for the entry in the same column, against section 487, the words "Not compoundable" shall be substituted ;

(17) for the entry in column 6, against section 494 the words 'Compoundable with permission of the Court before which the prosecution is pending' shall be substituted : and, for the entry in the same column, against section 495, the words "Not compoundable" shall be substituted ;

(18) for the entry in column 6, against section 508, the word "Compoundable" shall be substituted ;

(19) for the entry in column 6, against section 509, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted : and, for the entry in the same column, against section 510, the words "Not compoundable" shall be substituted ;

(20) in the entry in column 7, against section 121. for the words "forfeiture of property" the word "fine" shall be substituted ;

(21) in the entry in column 7, against section 121A, after the word "years" the words "and fine" shall be inserted ;

(22) in the entry in column 7, against section 122, for the words "forfeiture of property" the word "fine" shall be substituted ;

(23) for the entry in column 7, against section 477A, the words "Imprisonment of either description for seven years, or fine, or both" shall be substituted :

(24) for the entry in column 8 against section 294, the words "Any Magistrate" shall be substituted ;

(25) for the entry in column 8. against section 317, the words "Court of Session, Presidency Magistrate or Magistrate of the first class" shall be substituted ;

(26) in the entry in column 8. against section 218, the words "or second" shall be omitted ;

(27) for the entry in column 8, against section 327, the words "Court of Session, Presidency Magistrate, or Magistrate of the first class" shall be substituted ; and, for the entry in the same column, against section 328, the words "Court of Session" shall be substituted ;



(28) for the entry in column 8, against section 368, the words "Court of Session Presidency Magistrate or Magistrate of the first class" shall be substituted ;

(29) for the entry in column 8, against section 477A, the words "Court of Session, Presidency Magistrate or Magistrate of the first class" shall be substituted ;

(30) for the entry in column 8, against section 494, the words "Court of Session, Presidency Magistrate or Magistrate of the first class" shall be substituted, and, for the entry in the same column, against section 495, the words "Court of Session" shall be substituted.

**160. In Schedule III to the said Code,—**

Amendment of Schedule  
III, Code of Criminal  
Procedure, 1898.

(1) under Head I (*Ordinary Powers of a Magistrate of the Third Class*)—

(1) in item (5), after the word "property" the words "and to dispose of claims to attached property" shall be inserted ;

(2) item (13) shall be omitted ;

(3) in item (14), after the word "detention" the words "not being detention in the custody of the police" shall be inserted ;

(4) the following item shall be inserted between items (14) and (15), namely :—

"(14a) Power to postpone issue of process and inquire into case himself, section 202" ;

(5) to item (18), the words, figures and letter "and to require fresh security, section 514A" shall be added ;

(6) after item (18) the following item shall be inserted, namely :—

"(18a) power to make order as to custody and disposal of property pending inquiry or trial, section 516A" ;

(7) in item (20), the word "perishable" shall be omitted ;

(8) after item (20) the following items shall be added, namely :—

"(21) Power to require affidavit in support of application, section 539A" ;

"(22) Power to make local inspection, section, 539B" ;

(ii) under Head II (*Ordinary Powers of a Magistrate of the Second Class*)—

(i) for item (3) the following item shall be substituted, namely :—

"(3) Power to postpone issue of process and to inquire into a case or direct investigation, section 202" ;

(2) item (4) shall be omitted ;

(iii) under Head III (*Ordinary Powers of a Magistrate of the First Class*)—

(1) in item (6), for the figures "126" the figures and letter "126A" shall be substituted ;

(2) Between items (6) and (7) the following item shall be inserted, namely :—

“(6a) Power to make orders as to local nuisances, section 133”;

(3) Between items (7) and (8), the following items shall be inserted, namely :—

“(7a) Power to record statements and confessions during a police investigation, section 164 ;

(7aa) Power to authorise detention of a person in the custody of the police during a police investigation, section 167 ;

(7B) Power to hold inquests. section 174”;

(4) After item (9) the following item shall be inserted, namely :—

“(9a) Power to tender pardon to accomplice, during inquiry into case by himself, section 337”

(5) after item (12) the following item shall be inserted, namely :—

“(12a) Power to require fresh security, section 514A ;

(12b) Power to re-call case made over by him to another Magistrate, 528 (4)” ;

(6) after item (13) the following item shall be added, namely :—

“(14) Power to order released convicts to notify residence, section 565”;

(iv) in Head IV (*Ordinary Powers of a Sub-divisional Magistrate*)—

(1) in the head note, after the words “sub-divisional Magistrate”, the words “appointed under section 13” shall be inserted ;

(2) the following items shall be omitted, namely :

“(4) Power to make orders as to local nuisances, section 133” ;

“(10) Power to hold inquest, section 174”;

“(20) Power to order released convicts to notify residence, section 565”;

(v) in Head V (*Ordinary Powers of a District Magistrate*)—

(1) after item (1) the following item shall be inserted, namely :—

“(1a) Power to try juvenile offenders, section 29A”;

(2) After item (6) the following item shall be inserted, namely :—

“(6a) Power to order preliminary investigation by police-officer not below the rank of Inspector in certain cases, section 196B”;

(3) after item (7) the following item shall be inserted, namely :—

“(7a) Power to tender pardon to accomplice at any stage of a case, section 337”;

(4) in item (9), after the word “for” the words “keeping the peace or” shall be inserted ;

(5) After item (9) the following item shall be inserted, namely :—

“(9a) Power to hear appeals from orders of Magistrates refusing to accept or rejecting sureties, section 406A”;

(6) In item (12), for the figures “436” the figures “437,” and, in item (13), for the figures “437” the figures “436” shall be substituted, and items (12) and (13) shall be re-numbered (13) and (12), respectively.

**161.** In Schedule IV to the said Code,—

Amendment of Schedule  
IV. Code of Criminal Pro-  
cedure, 1898.

(i) from the list of powers with which a Magistrate of the first class may be invested by the Local Government, the following shall be omitted, namely :—

“(3) Power to make orders as to local nuisances, section 133”;

“(6) Power to hold inquests, section 174”;

“(14) Power to order released convicts to notify residence, section 565”;

(ii) from the list of powers with which a Magistrate of the first class may be invested by the District Magistrate, item (3), namely, “Power to hold inquests, section 174”, shall be omitted ;

(iii) in the list of powers with which a Magistrate of the second class may be invested by the Local Government—

between items (3) and (4) the following items shall be inserted, namely :—

“(3a) Power to record statements and confessions during a police investigation, section 164 ;

(3b) Power to authorise detention of a person in the custody of the police during a police investigation. section 167”;

(iv) from the list of powers with which a Magistrate of the third class may be invested by the Local Government, the following shall be omitted, namely :—

“(2) Power to make orders under section 144”;

“(6) Power to commit for trial, section 206” and from the list of powers with which such Magistrates may be invested by the District Magistrate, the following shall be omitted, namely :

“(2) Power to make orders under section 144.”

**162.** In schedule V to the said Code,—

Amendment of schedule  
V. Code of Criminal Pro-  
cedure, 1898.

(i) in From VI—

(a) in the ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS, for the words “proclamation was duly issued” the words “proclamation has been or is being duly issued” shall be substituted, and the words “and he has failed to appear” shall be omitted ;

(b) in the ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED, for the words “Proclamation was duly issued” the words ‘Proclamation has been or is being duly issued’ shall be substituted ;

(c) in the ORDER AUTHORISING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR, for the words "Proclamation was duly issued" the words "Proclamation has been or is being duly issued" shall be substituted, and the words, 'but he has not appeared' shall be omitted ;

(ii) in Forms X and XI, after the words "for the term of", wherever they occur, the words "or until the completion of the inquiry in the matter of now pending in the Court of", and after the words "said term", wherever they occur, the words "or until the completion of the said inquiry" shall be inserted :

(iii) in Form XXX—

(a) in the heading, for the word "DISTRESS" the words "ATTACHMENT AND SALE" shall be substituted ;

(b) after the words "dismissed as" the words "false and" shall be inserted : and

(c) the words "and cannot be recovered by distress of the moveable property of the said (name of complainant)" shall be omitted ;

(iv) in Forms XXXVII, after the figures "386" the figure, letter and brackets "(I) (a)" shall be inserted ;

(v) in each of Forms XXXVII and XLI, the following amendments shall be made, namely :—

(a) in the heading, for the word "DISTRESS" the word "ATTACHMENT" shall be substituted ;

(b) for the words "make distress by seizure of any" the words "attach any" shall be substituted ;

(c) for the words "such distress" the words "such attachment" shall be substituted ; and

(d) for the words "property distrained" the words "property attached" shall be substituted ;

(vi) after Form XXXVII the following Form shall be inserted, namely :

"XXXVIIA.—BOND FOR APPEARANCE OF OFFENDER RELEASED PENDING REALISATION OF FINE.

(See section 388.)

WHEREAS I, (name), inhabitant of (place), have been sentenced to pay a fine of rupees and in default of payment thereof to undergo-imprisonment for ; and whereas the Court has been pleased to order my release until the day of on condition of my executing a bond for my appearance on that day ;

I hereby bind myself to appear before the Court of at O' Clock on the said day of next and in case of making default herein, I bind myself to forfeit to His Majesty the King Emperor of India the sum of Rupees

Dated this day of 19

(Signature.)

Where a bond with sureties is to be executed, add—

We do hereby declare ourselves sureties for the above-named  
that he will appear before the Court of                      on the           day of  
   next ; and in case of his making default therein, we bind our-  
selves jointly and severally to forfeit to His Majesty the King  
Emperor of India the sum of Rupees

(*Signature.*)”

**163.** Section 31 of the Court-fees Act, 1870, is hereby repealed.

Repeal of section 31,  
Court-fees Act, 1870.

**164.** This Act shall come into force, on such date as the Governor  
General in Council may, by notification in the  
Commencement.                      Gazette or India, appoint.

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\* VII of 1870.

# ACT NO. XIX OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 2nd April 1923.*

## **An Act to consolidate and amend the law in British India relating to official secrets.**

Whereas the law in British India relating to official secrets is at present contained in two Acts of the Governor General in Council, namely, the Indian Official Secrets Act, 1889,\* and the Indian Official Secrets (Amendment) Act, 1904,† and one Statute of Parliament, namely, the Official Secrets Act, 1911‡; and

Whereas the Official Secrets Act, 1911, has been amended by the Official Secrets Act, 1920,§ which Statute applies to the United Kingdom and to certain British possessions, but not to British India: and

Whereas it is expedient that the law relating to official secrets in British India should be consolidated and amended;

It is hereby enacted as follows:—

Short title, extent and application. 1. (1) This Act may be called the Indian Official Secrets Act, 1923.

(2) It extends to the whole of British India, and applies also—

(a) to all subjects of His Majesty and servants of the Crown within the dominions of Princes and States in India in alliance with His Majesty; and.

(b) to all Indian subjects of His Majesty without and beyond British India.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context—

(1) any reference to a place belonging to His Majesty includes a place occupied by any department of the Government, whether the place is or is not actually vested in His Majesty;

(2) expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document, or information itself or the substance, effect or description thereof only be communicated or received; expressions referring to obtaining or retaining any sketch, plan, model, article, note or document, include the copying or

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\* XV of 1889. † V of 1904. ‡ 1 & 2 Geo. V. c. 28.

§ 10 & 11 Geo. V, c 75.

causing to be copied of the whole or any part of any sketch, plan, model, article, note, or document : and expressions referring to the communication of any sketch, plan model, article, note or document include the transfer or transmission of the sketch, plan, model, article, note or document ;

- (3) "document" includes part of a document ;
- (4) "model" includes design, pattern and specimen ;
- (5) "munitions of war" includes the whole or any part of any ship, submarine, aircraft, tank or similar engine, arms and ammunition, torpedo, or mine intended or adapted for use in war, and any other article, material, or device, whether actual or proposed, intended for such use ;
- (6) "Office under His Majesty" includes any office or employment in or under any department of the Government or of the Government of the United Kingdom or of any British possession ;
- (7) "photograph" includes an undeveloped film or plate ;
- (8) "prohibited place" means—
  - (a) any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, camp, ship or aircraft belonging to, or occupied by or on behalf of, His Majesty, any military telegraph or telephone so belonging or occupied, any wireless or signal station or office so belonging or occupied and any factory, dockyard or other place so belonging or occupied and used for the purpose of building, repairing making or storing any munitions of war, or any sketches, plans, models or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war ;
  - (b) any place not belonging to His Majesty where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired gotten or stored under contract with, or with any person on behalf of, His Majesty, or otherwise on behalf of His Majesty ;
  - (c) any place belonging to or used for the purpose of His Majesty which is for the time being declared by the Governor General in Council, by notification in the Gazette of India, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or damage thereto, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality ;
  - (d) any railway, road, way or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith) or any place used for gas, water or electricity works or other works for purposes of a public character, or any place where any munitions of war or any sketches, models, plans, or documents relating thereto, are being made, repaired, or stored otherwise than

on behalf of His Majesty, which is for the time being declared by the Governor General in Council, by notification in the Gazette of India to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality ;

(9) "sketch" includes any photograph or other mode of representing any place or thing ; and

(10) "Superintendent of Police" includes any police officer of a like or superior rank, and any person upon whom the powers of a Superintendent of Police are for the purposes of this Act conferred by the Governor General in Council or by any Local Government.

Penalties for spying.

3. (1) If any person for any purpose prejudicial to the safety or interests of the State—

(a) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place : or

(b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy ; or

(c) obtains, collects, records or publishes or communicates to any other person any secret official code or pass word, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy ;

he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, mine-field, factory, dockyard, camp ship or aircraft, or otherwise in relation to the naval, military or air force affairs of His Majesty or in relation to any secret official code, to fourteen years and in other cases to three years.

(2) On a prosecution for an offence punishable under this section with imprisonment for a term which may extend to fourteen years it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State ; and if any sketch, plan, model, article, note, document, or information relating to or used in any prohibited place, or relating to anything in such a place, or any secret official code or pass word is made, obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, and from the circumstances of the case or his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interests of the State such sketch, plan, model, article, note, document or information shall be presumed to have been made, obtained, collected, recorded,



published or communicated for a purpose prejudicial to the safety or interests of the State.

4. (1) In any proceedings against a person for an offence under section 3, the fact that he has been in communication with, or attempted to communicate with, a foreign agent, whether within or without British India, shall be relevant for the purpose of proving that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is calculated to be or might be, or is intended to be, directly or indirectly, useful to an enemy,

(2) For the purpose of this section, but without prejudice to the generality of the foregoing provision,—

(a) a person may be presumed to have been in communication with a foreign agent if—

(i) he has, either within or without British India, visited the address of a foreign agent or consorted or associated with a foreign agent, or

(ii) either within or without British India, the name or address of, or any other information regarding, a foreign agent has been found in his possession, or has been obtained by him from any other person ;

(b) the expression "foreign agent" includes any person who is or has been or in respect of whom it appears that there are reasonable grounds for suspecting him of being or having been employed by a foreign power, either directly or indirectly, for the purpose of committing an act either within or without British India, prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without British India, committed, or attempted to commit, such an act in the interests of a foreign power ;

(c) any address, whether within or without British India, in respect of which it appears that there are reasonable grounds for suspecting it of being and address used for the receipt of communications intended for a foreign agent, or any address at which a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, may be presumed to be the address of a foreign agent, and communications addressed to such an address to be communications with a foreign agent.

5. (1) If any person having in his possession or control any secret official code or pass word or any sketch, plan, model article, note, document or information which relates to or is used in a prohibited place or relates to anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under His Majesty, or

Wrongful communication,  
etc. of information.

which he has obtained or to which he has had access owing to his position as a person who holds or has held office under His Majesty, or as a persons who holds or has held a contract made on behalf of His Majesty, or as a person who is or has been employed under a person who holds or has held such an office or contract—

- (a) wilfully communicates the code or pass word, sketch, plan, model article note, document or information to any person other than a person to whom he is authorised to communicate it, or a Court of Justice or a person to whom it is, in the interests of the state, his duty to communicate it ; or
- (b) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety of the State ; or
- (c) retains the sketch, plan, model, article, note or document in his possessions or control when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof ; or
- (d) fails to take reasonable care of, or so conducts himself as to endanger the safety of, the sketch, plan, model, article, note, document, secret official code or pass word or information ;

he shall be guilty of an offence under this section.

(2) If any person voluntarily receives any secret official code or pass word or any sketch, plan, model, article, note, document or information knowing or having reasonable ground to believe, at the time when he receives it, that the code, pass word, sketch, plan, model, article, note, document or information is communicated in contravention of this Act, he shall be guilty of an offence under this section.

(3) If any person having in his possession or control any sketch, plan, model, article, note, document or information, which relates to munitions of war, communicates it, directly or indirectly, to any foreign power or in any other manner prejudicial to the safety or interests of the State, he shall be guilty of an offence under this section.

(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend two years, or with fine, or with both.

**6. (1)** If any person for the purpose of gaining admission or of assisting any other person to gain admission to a prohibited place or for any other purpose prejudicial to the safety of the State—  
Unauthorised use of uniforms ; falsification of reports, forgery, personation, and false documents.

(a) uses or wears, without lawful authority, any naval, military, air force, police or other official uniform, or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform ; or

- (b) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission ; or
- (c) forges, alters, or tampers with any passport or any naval, military, air force, police, or official pass, permit, certificate, licence, or other document of a similar character (hereinafter in this section referred to as an official document), or knowingly uses or has in his possession any such forged, altered, or irregular official document ; or
- (d) personates, or falsely represents himself to be, a person holding, or in the employment of a person holding, office under His Majesty, or to be or not to be a person to whom an official document or secret official code or pass word has been duly issued or communicated, or with intent to obtain an official document, secret official code or pass word, whether for himself or any other person, knowingly makes any false statement ; or
- (e) use, or has in his possession or under his control, without the authority of the department of the Government or the authority concerned, any die, seal or stamp of or belonging to, or used, made or provided by, any department of the Government, or by any diplomatic, naval, military, or air force authority appointed by or acting under the authority of His Majesty, or any die, seal or stamp so nearly resembling any any such die, seal or stamp as to be calculated to deceive, or counterfeits any such die, seal or stamp, or knowingly uses or has in his possession or under his control, any such counterfeited die, seal or stamp ;

he shall be guilty of an offence under this section.

(2) If any person for any purpose prejudicial to the safety of the State —

- (a) retains any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with any directions issued by any department of the Government or any person authorised by such department with regard to the return or disposal thereof ; or
- (b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code or pass word issued for the use of some person other than himself, or, on obtaining possession of any official document by finding or otherwise, wilfully fails to restore it to the person or authority by whom or for whose use it was issued, or to a police officer ; or
- (c) without lawful authority or excuse, manufactures or sells, or has

in his possession for sale, any such die, seal or stamp as aforesaid ;

he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(4) The provisions of sub-section (2) of section 3 shall apply, for the purpose of proving a purpose prejudicial to the safety of the State, to any prosecution for an offence under this section relating to the naval, military or air force affairs of His Majesty, or to any secret official code in like manner as they apply, for the purpose of proving a purpose prejudicial to the safety or interests of the State to prosecutions for offences punishable under that section with imprisonment for a term which may extend to fourteen years.

7. (1) No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede, any police officer, or any member of His Majesty's forces engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place.

(2) If any person acts in contravention of the provisions of this section, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

8. (1) It shall be the duty of every person to give on demand to a Superintendent of Police, or other police officer not below the rank of Inspector empowered by an Inspector-General or Commissioner of Police in this behalf or to any member of His Majesty's forces engaged on guard, sentry, patrol or other similar duty, any information in his power relating to an offence or suspected offence under section 3 or under section 3 read with section 9 and, if so required and upon tender of his reasonable expenses, to attend at such reasonable time and place as may be specified for the purpose of furnishing such information.

(2) If any person fails to give any such information or to attend as aforesaid, he shall be punishable with imprisonment which may extend to two years, with fine, or with both.

9. Any person who attempts to commit or abets the commission of offence under this Act shall be punishable with the same punishment, and be liable to be proceeded against in the same manner as if he had committed such offence.

10. (1) If any person knowingly harbours any person whom he knows or has reasonable grounds for supposing to be a person who is about to commit or who has committed an offence under section 3 or under section 3 read with section 9 or knowingly permits to meet or assemble in any premises in his occupation or under his control any such persons, he shall be guilty of an offence under this section.

(2) It shall be the duty of every persons having harboured any such

person as aforesaid, or permitted to meet or assemble in any premises in his occupation or under his control any such persons as aforesaid, to give on demand to a Superintendent of Police or other police officer not below the rank of inspector empowered by an inspector-General or Commissioner of Police in this behalf, any information in his power relating to any such person or persons, and if any persons fails to give any such information, he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

**II. (1)** If a Presidency Magistrate, Magistrate of the first class or Sub-divisional Magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed, he may grant a search-warrant authorising any police officer named therein, not being below the rank of an officer in charge of a police station, to enter at any time any premises or place named in the warrant, if necessary, by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note or document, or anything of a like nature, or anything which is evidence of an offence under this Act having been or being about to be committed which he may find on the premises or place or any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.

(2) Where it appears to a police officer, not being below the rank of Superintendent, that the case is one of great emergency, and that in the interests of the State immediate action is necessary, he may by a written order under his hand give to any police officer the like authority as may be given by the warrant of a Magistrate under this section.

(3) Where action has been taken by a police officer under sub-section (2) he shall, as soon as may be, report such action, in a Presidency town to the Chief Presidency Magistrate, and outside such town to the District or Sub divisional Magistrate.

Power to arrest.

**12.** Notwithstanding anything in the Code of Criminal Procedure, 1898\*—

- (a) an offence punishable under section 3 or under section 3 read with section 9 with imprisonment for a term which may extend to fourteen years shall be cognizable and non-bailable offence ;
- (b) an offence under clause (a) of sub-section (1) of section 6 shall be a cognizable and bailable offence ; and
- (c) every other offence under this Act shall be a non-cognizable and bailable offence, in respect of which a warrant of arrest shall ordinarily issue in the first instance.

\* V of 1898.

**13** (1) No Court (other than that of a Magistrate of the first class specially empowered in this behalf by the Local Government) which is inferior to that of a District or Presidency Magistrate shall try any offence under this Act.

(2) If any person under trial before a Magistrate for an offence under this Act at any time before a charge is framed claims to be tried by the Court of Session, the Magistrate shall, if he does not discharge the accused, commit the case for trial by that Court, notwithstanding that it is not a case exclusively triable by that Court.

(3) No Court shall take cognizance of any offence under this Act unless upon complaint made by order of, or under authority from, the Governor General in Council, the Local Government, or some officer empowered by the Governor General in Council in this behalf :

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that such complaint has not been made, but no further or other proceedings shall be taken until such complaint has been made.

(4) For the purposes of the trial of a person for an offence under this Act, the offence may be deemed to have been committed either at the place in which the same actually was committed or at any place in British India in which the offender may be found.

**14.** (1) In addition and without prejudice to any powers which a Court may possess to order the exclusion of the public from any proceedings if, in the course of proceedings before a Court against any person for an offence under this Act or the proceedings on appeal, or in the course of the trial of a person under this Act, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing, the Court may make an order to that effect, but the passing of sentence shall in any case take place in public.

**15.** Where the person guilty of an offence under this Act is a company or corporation, every director and officer of the company or corporation with whose knowledge and consent the offence was committed shall be guilty of the like offence.

**16.** The Indian Official Secrets Act, 1889,\* and the Indian Official Secrets (Amendment) Act, 1904,† are hereby repealed.

\* XV of 1889.

† V of 1904.

## ACT No. XX of 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 2nd April 1923.*

### **An Act to give effect to certain Articles of the International Convention for the Suppression of the Traffic in Women and Children.**

WHEREAS it is expedient further to amend the Indian Penal Code in order to give effect to the International Convention for the suppression of the Traffic in women and children signed at Geneva on behalf of the Governor General in Council on the 28th day of March, 1922 ; It is hereby enacted as follows :—

Short title and commencement,      **1. (1)** This Act may be called the Indian Penal Code (Amendment) Act, 1923.

**(2)** It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Amendment of section 366, Act XLV of 1860.      **2.** To section 366 of the said Code the following paragraph shall be added, namely :—

“and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid.”

Insertion of new sections 366A and 366B in Act XLV of 1860.      **3.** After section 366 of the said Code the following sections shall be inserted, namely :—

**“366A.** Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, of knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.

**366B.** Whoever imports into British India from any country outside India any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person,

and whoever with such intent or knowledge imports into British India from any State in India any such girl who has with the like intent or knowledge been imported into India, whether by himself or by another person,

shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine."

4. In the Second Schedule to the Code of Criminal Procedure, 1898, Amendment of Schedule after the entry relating to section 366 of the II, Code of Criminal Pro- Indian Penal Code the following entries shall be cedure, 1898, inserted, namely :—

"366B	Procuration of minor girl.	May arrest without warrant.	Warrant	Not bailable	Not compoundable	Imprisonment of either description for ten years and fine.	Court of Session.
366B	Importation of girl from foreign country.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for ten years and fine.	Court of Session."

\* V of 1898.



## ACT NO. XXI OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*And Received the assent of the Governor General on the 2nd  
April 1923.*

### CONTENTS.

#### PART I.

##### SECTIONS.

##### INTRODUCTORY.

1. Short title and commencement.
2. Definitions.
3. Application of Act to ships propelled by electricity or mechanical power.
4. Exemption of public ships.

#### PART II.

##### MASTERS AND SEAMEN.

5. Application. •

##### *Shipping Offices.*

6. Shipping Offices.
7. Power to direct that business of shipping office be transacted at customs-house office or elsewhere.
8. Business of shipping-masters.
9. Fees to be paid.
10. Prohibition on taking other remuneration at shipping office.

##### *Certificates of Competency.*

11. Certificates of competency to be held by officers of foreign-going and home-trade ships and foreign passenger ships.
12. When officer deemed duly certificated.
13. Penalty for serving, etc, as a master, mate or engineer without a certificate.
14. Grades of certificates of competency.
15. Examinations for certificates.
16. Grant of certificates on passing examinations.
17. Certificates of service of Naval Officers.
18. Form of certificates.
19. Record of orders affecting certificates.
20. Loss of certificate.
21. Power to make rules as to grant of certificates of competency.
22. Production of certificates of competency to shipping master.

##### *Apprenticeships to the Sea Service.*

23. Application of Act XIX of 1850.

## SECTIONS.

*Licences to supply Seamen.*

- 24. Licences to supply seamen.
- 25. Penalties for engaging seamen without licence.
- 26. Penalty for receiving remuneration from seamen for shipping them.

*Engagement of Seamen.*

- 27. Agreements with crew.
- 28. Form and contents of the agreement.
- 29. Engagement of single seaman where agreement is made out of British India.
- 30. Special provisions with regard to agreements with crew of foreign-going ships.
- 31. Renewal of running agreements in certain cases.
- 32. Special provisions as to agreements with crew of home-trade ship over three hundred tons burden.
- 33. Changes in crew of foreign-going ship to be reported.
- 34. Certificate as to agreement with crew of foreign-going ship.
- 35. Certificate as to agreement with crew of home-trade ship.
- 36. Copy of agreement to be made accessible to the crew.
- 37. Alteration in agreement with the crew.

*Engagement of Lascars by Masters of Foreign Ships.*

- 38. Engagements between masters of foreign ships and lascars or native seamen.
- 39. Penalty for master of foreign ship illegally engaging native seamen.
- 40. Power to prohibit engagement of native seamen.
- 41. Power to board British ships and master seamen.

*Discharge of Seamen.*

- 42. Discharge before shipping-master.
- 43. Certificate of discharge and return of certificate to officer on discharge.

*Payment of Wages.*

- 44. Master to deliver account of wages.
- 45. Deductions from wages of seamen.
- 46. Payment of wages before shipping-master.
- 47. Time of payment of wages.
- 48. Settlement of wages.
- 49. Decision of questions by shipping-masters.
- 50. Power of shipping-master to require production of ship's papers.
- 51. Rate of exchange for payment of seamen in British Indian money.

*Advance and Allotment of Wages.*

- 52. Advances and allotments.
- 53. Regulations as to allotment notes.
- 54. Payment of sums allotted.

## SECTIONS.

*Rights of Seamen in respect of Wages.*

- 55. Right to wages and provisions.
- 56. Right to recover wages and salvage not to be forfeited.
- 57. Wages not to depend on freight.
- 58. Wages on termination of service by wreck or illness.
- 59. Wages not to accrue during refusal to work or imprisonment.
- 50. Power to deduct from wages cost of procuring conviction.
- 61. Compensation to seamen.
- 62. Restriction on sale of, and charge upon, wages.

*Mode of recovering Wages.*

- 63. Summary proceedings for wages.
- 64. Restriction on suits for wages.
- 65. Remedies of Masters for wages.

*Property of deceased Seamen.*

- 66. Master to take charge of the effects of deceased seamen.
- 67. Disposal of property of seamen who die during the voyage.
- 68. Penalty for non-compliance with provisions as to property of deceased seamen.
- 69. Payment over property of deceased seamen by shipping-master.
- 70. Disposal of unclaimed property of deceased seamen.

*Distressed Seamen.*

- 71. Relief of distressed seamen to whom Merchant Shipping Acts apply.
- 72. Recovery of wages, etc., of distressed seamen under the Merchant Shipping Acts.

*Relief of distressed Seamen to whom the Merchant Shipping Acts do not apply.*

- 73. Provisions of the Act not to apply to seamen or apprentices to whom the Merchant Shipping Act applies.
- 74. Relief of distressed seamen at British Indian ports.
- 75. Distressed seamen to be sent home on board British ship wanting seamen to make up its crew.
- 76. Name and other particulars with regard to seamen to be indorsed on agreement of British ship.
- 77. Master of British ship compelled to convey and give subsistence to such seamen.
- 78. Conditions under which master may claim payment.
- 79. Wages and expenses incurred in respect of distressed seamen to be charged on ship to which they belong in certain cases.
- 80. Mode of recovering such wages and expenses.
- 81. Local Government may authorise persons to recover same.
- 82. Board of Trade may recover such amount from master or owner in certain cases.
- 83. What shall be evidence of distress and expenses incurred.
- 84. Power of Governor General in Council to make rules.

## SECTIONS.

*Provisions, Health and Accommodation.*

- 85. Complaints as to provisions or water,
- 86. Allowance for short or bad provisions.
- 87. Medicines to be provided and kept on board certain ships.
- 88. Weights and measures on board.
- 89. Expenses of medical attendance in case of illness.
- 90. Accommodation for seamen.
- 91. Inspection of medicines and appliances and accommodation.

*Facilities for making Complaints.*

- 92. Facilities for making complaints.

*Protection of Seamen from Imposition.*

- 93. Assignment or sale of salvage invalid.
- 94. No debt exceeding three rupees recoverable till end of voyage.
- 95. Penalty for overcharges by lodging-house-keepers.
- 96. Penalty for detaining seamen's effects.
- 97. Penalty for solicitations by lodging-house-keepers.
- 98. Penalty for being on board ship without permission before seamen leave.

*Provisions as to Discipline.*

- 99. Misconduct endangering life or ship.
- 100. Desertion and absence without leave.
- 101. Conveyance of deserter or imprisoned seamen on board ship.
- 102. Power to Court to order offender to be taken on board ship.
- 103. General offences against discipline.
- 104. Penalty for false statement as to last ship or name.
- 105. Entry of offences in official log.
- 106. Report of desertions and absences without leave.
- 107. Entries and certificates of desertion abroad.
- 108. Facilities for proving desertion in proceedings for forfeiture of wages.
- 109. Application of forfeitures.
- 110. Decision of questions of forfeiture and deduction in suits for wages.
- 111. Ascertainment of amount of forfeiture out of wages.
- 112. Payment of fines imposed under agreement to shipping-master.
- 113. Penalty for enticing to desert.
- 114. Penalty for harbouring deserters.
- 115. Penalty on stowaways and discipline of stowaways and seamen carried under compulsion.
- 116. Procedure where seaman or apprentice not shipped in British India is imprisoned on complaint of master or owner.
- 117. Power to send on board seaman or apprentice not shipped in British India who is undergoing imprisonment.
- 118. On change of master, documents to be handed over to successor.

*Leaving Seamen or Apprentices in British India.*

- 119. Discharge or leaving behind in British India of seamen or apprentices not shipped in British India.

## SECTIONS.

*Official Logs.*

- 120. Official logs to be kept and to be dated.
  - 121. Entries required in official log book.
  - 122. Offences in respect of official logs.
  - 123. Delivery of official logs to shipping-masters.
  - 124. Official logs to be sent to shipping-master in case of transfer of ship and in case of loss.
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## PART III.

## PASSENGER SHIPS.

*Survey of Passenger Ship.*

- 125. No steam-ship to carry passengers without a certificate of survey.
- 126. Power for Local Government to exempt certain steam-ships.
- 127. No port-clearance until certificate of survey produced.
- 128. Power to detain steam-ship not having certificate of survey.
- 129. Appointment of surveyors and ports of survey.
- 130. Powers of surveyor.
- 131. Fees in respect of surveys.
- 132. Power for Local Government to direct that two surveyors be employed.
- 133. Division of duties when two surveyors employed.
- 134. Declaration of surveyor.
- 135. Sending of declaration by owner or master to Local Government.
- 136. Grant of certificate of survey by Local Government.
- 137. Power for Local Government to order a second survey.
- 138. Duration of certificates of survey.
- 139. Cancellation or suspension of certificate of survey by Local Government.
- 140. Power to require delivery of expired or cancelled certificate of survey.
- 141. Report of cancellation or suspension of certain certificates.
- 142. Certificate of survey to be affixed in conspicuous part of steam-ship.
- 143. Penalty for carrying passengers in contravention of the Act.
- 144. Steam-ships with foreign certificates of survey or certificates of partial survey.
- 145. Power for Local Government to make rules as to surveys.

*Provisions in case of wreck of ship carrying steerage passengers.*

- 146. Application of certain sections of Merchant Shipping Act, 1894, in case of wreck of ship carrying steerage passengers on certain voyages.
-

## SECTIONS.

## PART IV.

## NATIVE PASSENGER SHIPS AND PILGRIM SHIPS.

- 147. Application of Part.
- 148. Power to exempt ship from provisions of Part IV.
- 149. Definitions.
  - General provisions as to Native Passenger and Pilgrim Ships.*
- 150. Places appointed by the Government.
- 151. Notice to be given of day of sailing.
- 152. Power to enter on and inspect ship.
- 153. Ship not to sail without two certificates.
- 154. Contents of certificate A.
- 155. Contents of certificate B.
- 156. Supply by passengers of their own food.
- 157. Grant of certificates.
- 158. Substitute for certificate A.
- 159. Survey of ship.
- 160. Discretion as to grant of certificate.
- 161. Copy of certificates to be exhibited.
- 162. Penalty for ship unlawfully departing or receiving passengers on board.
- 163. Penalty for opposing entry on, or inspection of, ships.
- 164. Penalty for not exhibiting copy of certificates.
- 165. Penalty for fraudulent alteration in ship after certificate obtained.
- 166. Penalty for failing to supply native passengers or pilgrims with prescribed provisions.
- 167. Penalty for having excessive number of passengers on board.
- 168. Penalty for landing native passenger or pilgrim at a place other than that at which he has contracted to land.
- 169. Penalty for making voyage in contravention of contract.
- 170. Information to be sent to ports of embarkation and discharge.
- 171. Report of Consul.
- 172. Authority to institute proceedings for penalties.
- 173. Appointment of officers.
  - Special Provisions relating to Native Passenger Ships.*
- 174. Definitions.
- 175. Power to declare what shall be deemed "seasons of fair weather" "seasons of foul weather", and "long voyages" and "short voyages".
- 176. Space to be available for passengers.
- 177. Ship taking additional passengers at inter mediate place.
- 178. Deaths on voyage,

*Rules for long Voyages.*

- 179. Space to be available for passengers.
- 180. Statements concerning passengers.
- 181. Deaths on voyage.
- 182. Ship taking additional passengers at intermediate place.

## SECTIONS.

*Voyages between British India and the Red Sea.*

- 183. Certain ships to be propelled by steam.
- 184. Certain ships to carry medical officer.
- 185. Ships carrying passengers to or from port in Red Sea to touch at Aden.
- 186. Bill of health at Aden.
- 187. Bond where ship clears for port in Red Sea.
- 188. Power for Local Government to direct medical inspection of passengers.
- 189. Penalty for not complying with requirements as to statements concerning passengers and certain other matters.
- 190. Penalty for bringing passengers from foreign port in excess of authorised number.
- 191. Power for Governor General in Council and Local Government to make rules.
- 192. Power to prescribe space to be available for passengers.

*Special Provisions regarding Pilgrim Ships,*

- 193. Space to be provided for pilgrims.
  - 194. Disposal of pilgrims' baggage.
  - 195. Hospital accommodation.
  - 196. Statement concerning pilgrims to be delivered before ship departs.
  - 197. Deaths on voyage.
  - 198. Pilgrim ship taking additional pilgrims at intermediate place
  - 199. Statement concerning pilgrims to be delivered before pilgrims disembark in British India.
  - 200. Pilgrim ships to be propelled principally by steam and to be of certain tonnage and steam-power.
  - 201. Certain pilgrim ships to carry medical officers and attendants.
  - 202. Medical officers' diaries and reports.
  - 203. Pilgrim ships to touch at Aden on the outward voyage.
  - 204. When authority at Aden may refuse to let ship leave.
  - 205. Bond where pilgrim ship proceeds on out ward voyage.
  - 206. Medical inspection and permission required before embarkation of pilgrims.
  - 207. Medical inspection after embarkation in certain cases.
  - 208. Medical inspection of women.
  - 209. Issue and production of tickets and refund of passage money.
  - 210. Sanitary taxes payable by master of pilgrim ship:
  - 211. Penalty on master for not complying with requirements as to statements concerning pilgrims and certain other matters.
  - 212. Penalty on master or medical officer of pilgrim ship disobeying rules under this Act.
  - 213. Power for Governor General in Council and Local Government to make rules.
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## PART V.

## SECTIONS.

## SAFETY.

*Prevention of Collisions.*

- 214. Appointment of inspectors of lights and fog-signals.
- 215. Notice of deficiency to be given to master or owner by such inspectors.
- 216. Ship not to be cleared by Customs-collector till inspector certifies it is properly provided with lights, etc.

*Draught of water and Load-line.*

- 217. Marking of deck-lines.
- 218. Marking of load-lines.
- 219. Ships with submerged load-lines deemed unsafe.
- 220. Time of marking load-line in case of foreign-going vessels.
- 221. Time for marking load-line in case of coasting vessels.
- 222. Penalty for offences relating to marking of load-line.
- 223. Power to appoint officer to certify position of dise.
- 224. Power to make rules.

*Grain Cargoes.*

- 225. Stowage of cargo of grain, etc.
- 226. Penalty for improper stowage of such cargo.

*Savings.*

- 227. Saving for certain ships.
- 228. Power to exclude or re-include certain classes of ships.

*Unseaworthy Ships.*

- 229. Every person sending unseaworthy ship to sea liable to penalty
- 230. Unseaworthy ships.
- 231. Obligation of owner to crew with respect to seaworthiness.

*Detention of unsafe ships by the Local Government.*

- 232. Power to detain unsafe ship and procedure for detention.

*Costs of detention and damages incidental thereto.*

- 233. Liability of Government for costs and damages when ship wrongly detained.
- 234. Liability of ship-owner for costs when ship rightly detained.
- 235. What included in costs of detention and survey.
- 236. Power to require from complainant security for costs, etc.
- 237. Costs, etc, payable by Government recoverable from complainant.
- 238. Application to foreign ships of provisions as to detention.
- 239. Delegation of powers to Port Commissioners, etc.

*Installation of Wireless Telegraphy.*

- 240. Commencement.
- 241. Definitions.
- 242. Wireless telegraphy requirements.
- 243. Appointment and powers of wireless telegraphy inspectors.
- 244. Application to ships other than British ships registered in India.
- 245. Power to make rules.



## PART VI.

## SECTIONS.

## SPECIAL SHIPPING INQUIRIES AND COURTS.

- 246. Shipping casualties and report thereof.
- 247. Report of shipping casualties to the Local Government.
- 248. Power for Local Government to appoint special Court of Investigation.
- 249. Power for other Courts to hold investigations into casualties when so directed.
- 250. Power for Court of Investigation to inquire into charges against masters, mates and engineers.
- 251. Power for Local Government to direct investigation into charges of incompetency or misconduct.
- 252. Person accused to be heard.
- 253. Powers of Courts as to evidence and regulation of proceedings.
- 254. Assessors.
- 255. Power to arrest witnesses and cause entry and detention of vessels.
- 256. Power to commit for trial and bind over witnesses.
- 257. Report by Court to Local Government.

*Suspension and cancellation of certificates and grant of fresh certificates.*

- 258. Saving of power to cancel and suspend certificates and remove master under English Acts.
- 259. Power to issue local certificates in lieu of cancelled or suspended certificates.
- 260. Power for Local Government to suspend or cancel certificates in certain cases.
- 261. Report to other Local Governments
- 262. Report to Board of Trade.
- 263. Power to revoke cancellation or suspension and grant new certificate.
- 264. Power of Court of Investigation or Inquiry as to certificates granted by a Local Government.
- 265. Power to remove master and appoint a new master.
- 266. Delivery of certificates cancelled or suspended.

*Investigations into Explosions,*

- 267. Power to investigate causes of explosions on board steam ships.

*Courts of Survey.*

- 268. Constitution of Courts of Survey.
- 269. Powers and procedure of Court of Survey.
- 270. Power of Local Government to make rules with respect to Court of Survey.

*Scientific Referees.*

- 271. Reference in difficult cases to scientific persons.
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## PART VII.

## SECTIONS.

## WRECK AND SALVAGE.

- 272. "Wreck" defined.
- 273. Appointment of receivers.
- 274. Rules to be observed by persons finding wreck.
- 275. Government or person finding wreck entitled to salvage.
- 276. Notice to be given by receiver.
- 277. Wreck may in certain cases be sold.
- 278. Proceeds how applied.
- 279. Savings.

## PART VIII.

## LEGAL PROCEEDINGS.

- 280. Certain persons to be deemed Public Servants.
- 281. Jurisdiction of Magistrates.
- 282. Place of trial of the offender.
- 283. Depositions to be received in evidence when witnesses cannot be produced.
- 284. Enforcing detention of ship.
- 285. Levy of wages, etc., by distress of moveable property.
- 286. Levy of wages, fines, etc. by distress of ship.
- 287. Service of documents.
- 288. Application of fines.

## PART IX.

## SUPPLEMENTAL.

- 289. Powers to see Act is complied with.

*Ship Surveyors.*

- 290. Power to appoint examiners and to make rules as to qualifications of ship surveyors.
- 291. No person to practise as ship surveyor unless qualified.
- 292. Penalty for practising as ship surveyor without certificate.
- 293. Powers of person appointed or authorised to survey ship.
- 294. Provisions with respect to rules.
- 295. Protection to persons acting under Act.
- 296. Repeals.

SCHEDULE I.—Tables A and B.

SCHEDULE II.—Rates of fees payable in respect of survey of Steamships.

SCHEDULE III.—Part I (Applied sections of the Merchant Shipping Act, 1894).

Part II (Form of Governor's or Consul's certificate of expenditure in the case of passengers shipwrecked, etc.)

SCHEDULE IV.—Declaration between the Government of the United Kingdom and the Government of the French Republic, etc., etc.

SCHEDULE V.—Enactments repealed.

## ACT No. XXI OF 1923.

### *An Act to consolidate certain enactments relating to Merchant Shipping.*

WHEREAS it is expedient to consolidate certain enactments relating to Merchant Shipping ; It is hereby enacted as follows :—

### PART I.

#### INTRODUCTORY.

1. (1) This Act may be called the Indian Merchant Shipping Act, 1923.

Short title and commencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In this Act, unless there is anything repugnant in the subject Definitions. or context,—

- (1) "effects" includes clothes and documents ;
- (2) "foreign-going ship" means a ship, not being a home-trade ship, employed in trading between any port in British India and any other port or place ;
- (3) "home-trade ship" means a ship employed in trading between any ports in British India or between any port in British India and any port or place on the continent of India, or in the Straits Settlements, or in the Island of Ceylon ;
- (4) "master" includes every person (except a pilot or harbour master) having command or charge of a ship ;
- (5) "Merchant Shipping Acts" mean the Merchant Shipping Acts 1894—1921 ;
- (6) "passenger" includes any person carried in a ship other than the master and crew and the owner, his family and servants ;
- (7) "prescribed" means prescribed by rules made under this Act ;
- (8) "seamen" means every person (except masters, pilots and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship ;
- (9) "steam-ship" means every description of vessel used in navigation and propelled wholly or in part by the agency of steam ; and
- (10) "wages" includes emoluments,

3. The provisions of this Act applying to steam-ships shall apply to ships propelled by electricity or other mechanical power, with such modifications as the Governor General in Council may by notification in the Gazette of India, direct for the purpose of

Application of Act to ships propelled by electricity or mechanical power.  
adaption.

4. This Act shall not, except where specially provided, apply to ships belonging to His Majesty or the Government, or to ships belonging to any foreign Prince or State and employed otherwise than for profit in the public service of that foreign Prince or State.

## PART II.

### MASTERS AND SEAMEN.

5. (1) The provisions of this Part relating to the requirement of masters and mates to hold certificates of competency shall not apply to ships registered under the Indian Registration of Ships Act, 1841,\* and trading between ports in India and the coast of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars, or other Asiatic masters and seamen.

(2) Save as hereinbefore provided in this section, this Part shall, unless there is anything repugnant in the subject or context, apply to British ships and to the owners, masters and crews thereof as follows :—

- (a) The provisions relating to licences to supply seamen engagement of the crew, agreements with lascars, discharge of seamen, payment of wages, advance and allotment of wages, mode of recovering wages, and recovery of expenses of relief of distressed seamen, shall apply to every sea-going ship in British India.
- (b) The provisions relating to the property of deceased seamen and apprentices shall apply to every sea-going ship, not being a ship registered in the United Kingdom or a ship employed in trading or going from or to any port in the United Kingdom, where the crew are discharged or the final port of destination of the ship is in British India.
- (c) The provisions relating to the rights of seamen in respect of wages, to the return of distressed seamen, to the provision and health of seamen, to the power of seamen to make complaints, to the protection of seamen from imposition and to discipline shall apply to sea-going ships registered in British India, while such ships are in British India.
- (d) The provisions relating to official logs shall apply to sea-going ships registered in British India, and to any sea-going ship, not being a ship registered in the United Kingdom, employed in trading or going between any port in British India and any port not situated in the part of His Majesty's dominions in which the ship is registered other than in the United Kingdom.

(3) The provisions of this Part, in so far as they are adaptations of the provisions of Part II of the Merchant Shipping Act, 1894,† and

\* X of 1841.

† 57 & 58 Vict. c. 60.

are not local in their application have by virtue of section 264 of the Merchant Shipping Act, 1894, effect throughout His Majesty's dominions and in all places where His Majesty has jurisdiction, as well as in British India.

### *Shipping Offices.*

6. (1) Shipping offices shall be maintained at every port in British India where there is a shipping office at the commencement of this Act, and may be established and maintained at such other ports as the Governor General in Council may deem necessary.

(2) For every such office there shall be a shipping masters with such deputy shipping masters, clerks and servants (if any) as the Local Government may consider necessary.

(3) Shipping-masters and deputy shipping masters shall be appointed by the Local Government and shall respectively be subject to the control of that Government or of any intermediate authority which it may appoint.

(4) Every act done by or before a deputy shipping master shall have the same effect as if done by or before a shipping master.

7. (1) The Local Government may direct that at any port at which no separate shipping office is established, the whole or any part of the business of shipping office shall be transacted at custom house office or elsewhere. The business of the shipping office shall be conducted at the custom house, or at the office of the port officer, or at such other officer as the Local Government shall direct, and thereupon the same shall be conducted accordingly.

(2) In respect of such custom house or office as aforesaid shall for all purposes be deemed to be a shipping office, and the officer to whom such business is committed shall for all purposes be deemed to be a shipping-master within the meaning of this Act.

8. It shall be the general business of shipping-masters—

Business of shipping masters.

- (i) to superintend and facilitate the engagement and discharge of seamen in manner in this Act provided ;
- (ii) to provide means for securing the presence on board at the proper times of the seamen who are so engaged ;
- (iii) to give to all persons desirous of apprenticing boys to the sea service and duly authorised so to do by the Apprentices Act, 1850,\* and also to owners and masters of British ships requiring apprentices, such assistance as may be in their power for facilitating the making of such apprenticeship ;
- (iv) to perform such other duties relating to seamen, apprentices and merchants ships as are for the time being committed

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\* XIX of 1850.

to them by or under this Act or the Merchant Shipping Acts.

9. (1) Such fees, not exceeding the sum specified in Table A in Schedule I, as may be fixed by the Local Government shall be payable upon all engagements and discharges effected before shipping-masters.

(2) Scales of the fees payable for the time being shall be conspicuously placed in the shipping office, and all shipping-masters, their deputies, clerks and servants, may refuse to proceed with any engagement unless the fees payable thereon are first paid.

(3) Every owner or master of a ship engaging or discharging any seamen in a shipping office or before a shipping-master, shall pay to the shipping-master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged, or discharged, and retain any sums not exceeding the sums specified in that behalf in Table B, in Schedule I.

Provided that, if in any cases the sums which the owner is so entitled to deduct, exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping master in addition to such fee.

(4) For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have runing agreements as hereinafter provided, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

10. If a shipping-master, deputy shipping-master, clerk or servant in a shipping office demands or receives, other than the fees authorised under this Act, any remuneration whatever, either directly or indirectly, for hiring or supplying any seamen for a ship or transacting any business which it is his duty to transact, he shall be liable for every such offence to a fine which may extend to two hundred rupees, and shall also be dismissed from his office,

#### *Certificates of Competency.*

11. (1) Every British foreign-going ship and every British home-trade ship of three hundred tons or upwards when going to sea from any place in British India shall be provided with officers duly certificated under this Act according to the following scale. namely :—

Certificates of competency to be held by officers of foreign-going and home-trade ships and foreign passenger ships

- (a) in any case, with a duly certificated master ;
- (b) if the ship is of three hundred tons or upwards, with at least one officer besides the master holding a certificate not lower than that of a mate.

(2) Every British foreign-going steamship when going to sea from any place in British India shall be provided with engineers duly certificated under this Act according to the following scale namely :—

(a) if the ship is of one hundred nominal horse-power or upwards, with at least two engineers, one of whom shall be a first class and the other a first class or second class engineer duly certificated ;

(b) if the ship is of less than one hundred nominal horse-power, with at least one engineer who is a first class or second class engineer duly certificated.

(3) Every British home-trade steam-ship when going to sea from any place in British India and every foreign steam-ship carrying passengers between places in British India shall be provided with engineers duly certificated according to the following scale, namely :—

(a) if the ship is of fifty nominal horse-power or upwards, with at least one engineer who is a first class or second class engineer duly certificated ;

(b) if the ship is of less than fifty nominal horse-power, with at least one engineer who is a first class or second class engineer, or an engine driver duly certificated.

(4) Nothing in this section which relates to engineers or engine drivers shall apply to any steam-ship to which the provisions of the Inland Steam-vessels Act, 1917,\* apply.

12. An officer shall not be deemed to be duly certificated under this Act, unless he holds a certificate of a grade appropriate to his station in the ship or of a higher grade,

When officer deemed  
duly certificated.

(a) granted in accordance with the Merchant Shipping Acts or any Act repealed thereby or this Act or any Act repealed hereby ; or

(b) issued by a competent authority in any British possession, the certificates of which have been declared by Order in Council made under section 102 of the Merchant Shipping Act, 1894,† to have the same force as if they were granted under that Act.

13. Any person who—

Penalty for serving, etc.,  
as a master, mate or en-  
gineer without a certificate.

(a) having been engaged as one of the officers mentioned in section 11, goes to sea as such officer without being duly certificated, or

(b) employs a person as an officer in contravention of section 11, without ascertaining that the person so serving is duly certificated.

shall be liable for each such offence to a fine which may extend to five hundred rupees.

\* I of 1917.

† 57 and 58 Vict, c. 60.

14. (1) Certificates of competency shall be granted in accordance with this Act for each of the following grades, namely :—

Grades of certificates of competency.

- Master of foreign-going ship.
- First mate of foreign-going ship.
- Second mate of foreign-going ship.
- Master of a home-trade ship.
- Mate of a home-trade ship.
- First class engineer.
- Second class engineer.
- Engine driver.

(2) A certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last-mentioned ship ; but no certificate for a home-trade ship shall entitle the holder to go to sea as master or mate of a foreign-going ship

15. The Local Government or a person duly authorised by the Local Government in this behalf shall appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency under this Act.

Examinations for certificates.

16. The Local Government or such authorised person shall deliver to every applicant, who is duly reported by the examiners to have passed the examination satisfactorily and to have given satisfactory evidence of his sobriety, experience and ability and general good conduct on board ship, such a certificate of competency as the case requires :

Grant of certificates on passing examinations.

Provided that the Local Government may, in any case in which it has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character,

17. (1) A person who has attained the rank of Lieutenant in His Majesty's Navy or in the Royal Indian Marine shall be entitled to a certificate of service as the master of a foreign-going ship without examination.

Certificates of service of Naval Officers.

(2) A person who has attained the rank of engineer or assistant engineer in His Majesty's Navy or the Royal Indian Marine, shall be entitled without examination, if an engineer, to a certificate of service as first class engineer, and, if an assistant engineer, to a certificate of service as second class engineer.

(3) A certificate of service shall differ in form from a certificate of competency, and shall contain the name and rank of the person to whom it is delivered, and the Local Government shall deliver a certificate of service to any person who proves himself to be entitled thereto.

(4) The provisions of this Act (including the penal provisions) shall apply in the case of a certificate of service as they apply in the case of a certificate of competency.



**18.** Every certificate of competency granted under this Act shall be in the prescribed form and shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept by the Local Government and recorded in the prescribed manner.

**19.** A note of all orders made for suspending, cancelling, altering or otherwise affecting any certificate of competency, in pursuance of the powers contained in this Act, shall be entered on the copy of the certificate kept by the Local Government.

**20.** Whenever a master, mate, engineer or engine driver proves to the satisfaction of the Local Government by or under the authority of which his certificate was granted that he has, without fault on his part, lost or been deprived of a certificate already granted to him, the Local Government shall cause a copy of the certificate, to which by the record kept in accordance with this Act he appears to be entitled, to be granted to him, and such copy shall have all the effect of the original.

**21.** (1) The Local Government, with the previous sanction of the Governor General in Council, may make rules to regulate the granting of certificates of competency under this Act, and may, by such rules,—

- (a) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters, mates, engineers, or engine drivers ;
- (b) prescribe the qualifications to be respectively required of persons desirous of obtaining certificates of competency as masters, first mates, second mates, firstclass engineers, second-class engineers, or engine drivers ;
- (c) fix the fees to be paid by applicants for examination ; and
- (d) prescribe the form in which such certificates are to be framed and the manner in which the copy of the certificate to be kept by the Local Government is to be recorded.

Production of certificates of competency to shipping-masters.

**22.** (1) The master of a foreign-going ship—

- (a) on signing the agreement with his crew shall produce to the shipping-master, before whom the same is signed, the certificates of competency which the master, mate and engineers of the ship are by this Act required to hold ; and
- (b) in the case of a running agreement shall, also, before the second and every subsequent voyage, produce to the shipping-master the certificate of competency of any mate or engineer then first engaged by him who is required by this Act to hold a certificate.

(2) The master or owner of every home-trade ship of more than three hundred tons burden shall produce to some shipping master in British India, within twenty-one days after the thirtieth of June and the thirty-first of December in every year, or (if the ship is not at any port in British India within twenty-one days after either the thirtieth of June or the thirty-first day of December in any year within forty-eight hours after her next arrival at any port in British India, the certificates of competency which the master, mates and engineers of the ship are by this Act required to hold.

(3) Upon the production of the certificates of competency, the shipping-master shall, if the certificates are such as the master, mates and engineers of the ship ought to hold, give to the master a certificate to the effect that the proper certificates of competency have been so produced.

(4) The master shall, before proceeding to sea, produce the certificate given to him by the shipping-master to the Customs-collector, or, if there is no Customs-collector, to the officer whose duty it is to grant a port-clearance.

(5) No officer of Customs or other officer shall clear any such ship outwards without such production : and, if any ship attempts to go to sea without a clearance, any such officer may detain her until the certificate is produced.

*Apprenticeships to the Sea Service.*

23. (1) Subject to the provisions of the Apprentices Act, 1850,\* any boy may be bound as an apprentice in the sea service to the owner of any ship registered in British India to be employed in any such ship, being the property of such person, the master of which is a British subject, and while so employed to be taught the craft and duty of a seaman, and the provisions of the said Act shall, save as hereinafter provided in this section, apply accordingly.

(2) The master of any ship in which any apprentice bound to the sea service shall be appointed to serve by the party to whom he is bound shall be deemed to be the agent of such party for the purposes of the said Act.

(3) The duties of the Magistrate under that Act in respect of the contract of apprenticeship and of the endorsements thereon of any assignment, alteration or cancellation of the contract and of the certification of the offer of the continuation of the contract by the executors or administrators of a deceased master of the apprentice shall be performed by the shipping-master of the port where the apprentice is to begin his service.

*Licences to supply Seamen.*

24. (1) The Local Government or any person duly authorised by the Local Government in this behalf may grant to such persons as may be deemed fit licences to engage or supply seamen for merchant ships in British India.

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\* XIX of 1850.

(2) Any such licence shall continue for such period, and may be granted and revoked on such terms and conditions as the Local Government thinks proper.

25. (1) A person shall not engage or supply a seamen to be entered on board any ship in British India unless that person either holds a licence under this Act for the purpose, or is the owner or master or mate of the ship, or is *bond fide* the servant and in the constant employ of the owner, or is a shipping-master.

Penalties for engaging seamen without licence.

(2) A person shall not employ. for the purpose of engaging or supplying a seaman to be entered on board any ship in British India, any person unless that person either holds a licence under this Act for the purpose, or is the owner or master or mate of the ship, or is *bond fide* the servant and in the constant employment of the owner, or is a shipping-master.

(3) A person shall not receive or accept to be entered on board any ship any seaman if that person knows that the seaman has been engaged or supplied in contravention of this section.

(4) If a person acts in contravention of this section, he shall for each seaman in respect of whom an offence is committed be liable to a fine which may extend to one hundred rupees, and, if a licensed person, shall forfeit his licence.

26. (1) A person shall not demand or receive, either directly or indirectly, from any seaman, or from any person seeking employment as a seaman or from any person on his behalf, any remuneration whatever for providing him with employment other than the fees authorised by this Act,

Penalty for receiving remuneration from seamen for shipping them.

(2) If a person acts in contravention of this section, he shall for each such offence be liable to a fine of fifty rupees, and, if a licensed person, shall forfeit his licence.

### *Engagement of Seamen.*

27. (1) The master of every British ship, except home-trade ships of a burden not exceeding three hundred tons, shall enter into an agreement (in this Act called the agreement with the crew) in accordance with this Act with every seaman whom he engages in, and carries to sea as one of his crew from any port in British India.

Agreements with crew.

(2) If a master of a ship carries any seaman to sea without entering into an agreement with him in accordance with this Act, the master shall for each offence be liable to a fine which may extend to fifty rupees.

28. (1) An agreement with the crew shall be in a form sanctioned by the Governor General in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same.

Form and contents of the agreement.

(2) The agreement with the crew shall contain as terms thereof the following particulars, namely :—

- (a) either the nature and, as far as practicable, the duration of the intended voyage or engagement or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend ;
- (b) the number and description of the crew, specifying how many are engaged as sailors ;
- (c) the time at which each seaman is to be on board or to begin work ;
- (d) the capacity in which each seaman is to serve ;
- (e) the amount of wages which each seaman is to receive ;
- (f) a scale of the provisos which are to be furnished to each seaman, such scale being, in the case of lascars or other native seamen, not less than a scale to be fixed by the Local Government with the previous sanction of the Governor General in Council and published in the local official Gazette ;
- (g) any regulations as to conduct on board and as to fines, short allowance of provisions or other lawful punishments for misconduct, which have been sanctioned by the Governor General in Council as regulations proper to be adopted, and which the parties agree to adopt ; and
- (h) where it is agreed that the services of any lascar or other native seaman shall end at any port not in British India a stipulation to provide him either fit employment on board some other ship bound to the port at which he was shipped or to such other port in British India as may be agreed on, or a passage to some port in British India free of charge or on such other term as may be agreed upon, and in this provision the word "seaman" shall include also any native of British India carried to sea from any port in British India as one of the crew :

Provided that any such stipulation shall be signed by the owner of the ship or by the master on his behalf.

(3) The agreement with the crew shall be so framed as to admit of such stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of any enactment for the time being in force relating to Merchant Shipping) as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.

(4) If a master enters into an agreement with a lascar or other native seaman for a scale of provisions less than the scale fixed under this section he shall be liable to a fine which may extend to two hundred rupees.

**29.** If the master of a ship registered at a port outside British India

Engagement of single seaman where agreement is made out of British India has an agreement with the crew made in due form according to the law of that port or of the port in which her crew were engaged and engages a single seaman not being a lascar or other native seaman in any port in British India, the seaman may sign the

agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

30. (1) The following provisions shall have effect with respect to the agreements with the crew made in British India in the case of foreign-going ships registered either within or without British India, namely :—

Special provisions with regard to agreements with crew of foreign-going ships

- (a) The agreement shall, subject to the provisions of this Act as to substitutes, be signed by each seaman in the presence of a shipping-master.
- (b) The shipping-master shall cause the agreement to be read over and explained to each seaman, in a language understood by him, or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.
- (c) When the crew is first engaged the agreement shall be signed in duplicate and one part shall be retained by the shipping-master, and the other part shall be delivered to the master, and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship.
- (d) When a substitute is engaged in the place of a seaman who has duly signed the agreement and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, if practicable, be made before a shipping-master, and if not practicable the master shall, before the ship puts to sea if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute ; and the substitute shall thereupon sign the same in the presence of a witness, who shall attest the signature.
- (e) The agreement may be made for a voyage of the ship or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and agreements so made are in this Act referred to as running agreements.
- (f) Save as otherwise provided in this section, running agreements shall not extend beyond the next following thirtieth day of June or thirty first day of December, or the first arrival of the ship at her port of destination in British India after such date, or the discharge of cargo consequent upon that arrival.
- (g) On every return to a port in British India before the final termination of a running agreement, the master shall discharge or engage before the shipping-master at such port any seaman whom he is required by law so to discharge or engage ; and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are

intended to be made before the ship leaves port, or that all those made have been made as required by law, and if the master wilfully makes a false statement in any such endorsement, he shall for each offence be liable to a fine which may extend to two hundred rupees.

(h) The master shall deliver the running agreement so endorsed to the shipping-master and the shipping-master shall, if the provisions of this Act relating to agreements have been complied with, sign the endorsement and return the agreement to the master.

(2) In the case of a ship—

(a) registered in British India, or

(b) registered in the United Kingdom but not employed in trading with any port in the United Kingdom,

a running agreement may be made to extend over two or more voyages so that it shall terminate either within six months from the date on which it was executed, or on the first arrival of the ship at her port of destination in British India after the expiration of that period, or on the discharge of cargo consequent upon such arrival, whichever of these dates shall be the latest :

Provided that no such agreement shall continue in force if, after the expiration of such period of six months as aforesaid, the ship proceeds on a voyage from a port out of British India to any other such port which is not on the direct road or a customary route to her port of destination in British India :

Provided, also, that every such agreement shall, in addition to any other particulars required by law, contain such stipulations for the discharge of the crew and payment of their wages, for securing their return to the port at which they were shipped or to some other port in British India, and for other purposes on the termination of the agreement at a port out of British India under the foregoing proviso, as the Governor General in Council may direct.

31. (1) When a running agreement has been made with the crew of a

Renewal of running agreements in certain cases.

foreign-going ship and the ship arrives after the next following thirtieth day of June or thirty-first day of December, as the case may be, or after the expiration of a period of six months from the date on which it was executed at a port of destination in British India which is not the port at which the crew have agreed to be discharged, the master may, with the previous sanction of the shipping-master, renew the agreement with the crew, or may be required by the shipping-master so to renew the agreement for the voyage from such port of destination to the port in British India at which the crew have agreed to be discharged.

(2) If the master of the ship is required by the shipping-master to renew the agreement as aforesaid and refuses so to renew it, any expenses, which may be incurred by Government for the subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of this Act.

Special provisions as to agreements with crew of home-trade ship over three hundred tons burden.

**32.** The following provisions shall have effect with respect to the agreements with the crew of home-trade ships for which an agreement with the crew is required under this Act, namely :—

- (a) Agreements may be made either for service in a particular ship or for service in two or more ships belonging to the same owner, but, in the latter case the names of the ships and the nature of the ships and the nature of the service shall be specified in the agreement.
- (b) Crews or single seamen may, if the master thinks fit, be engaged before a shipping-master in the same manner as they are required to be engaged for service in foreign-going ships, but, if the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature.
- (c) An agreement for service in two or more ships belonging to the same owner may be made by the owner instead of by the master, and the provisions of this Act with respect to the making of the agreement shall apply accordingly.
- (d) Agreements shall not extend beyond the next following thirtieth day of June or thirty-first day of December or the first arrival of the ship at her final port of destination in British India after such date, or the discharge of cargo consequent on that arrival :

Provided that the owner or his agent may enter into time agreements in forms sanctioned by the Governor General in Council with individual seamen to serve in any one or more ships belonging to such owner, which agreements need not expire on either the thirtieth day of June or the thirty-first day of December.

**33.** (1) The master of every foreign-going ship, of which the crew has been engaged before a shipping-master, shall, before finally leaving British India, sign and send to the nearest shipping-master a full and accurate statement in a form sanctioned by the Governor General in Council, of every change which takes place in his crew before finally leaving British India, and that statement shall be admissible in evidence.

(2) If any master fails without reasonable cause to comply with the requirements of this section, he shall be liable for each offence to a fine which may extend to fifty rupees.

**34.** (1) In the case of a foreign-going ship on the due execution of an agreement with the crew in accordance with this Act, and also, when the agreement is a running agreement, on compliance by the master before the second and every subsequent voyage made after the first commencement of the agreement, with the provisions of this Act respecting that agreement, the shipping-master shall grant the master of the ship a certificate to that effect.

(2) The master of every foreign-going ship shall, before proceeding to sea, produce that certificate to the Customs-collector, or, if there is no Customs-collector, to the officer whose duty it is to grant a port-clearance.

(3) No officer of Customs or other officer shall clear any such ship outwards without such production; and, if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced.

(4) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in British India, or upon the discharge of the crew, whichever first happens, deliver such agreement to a shipping-master at the place; and such shipping-master shall thereupon give to the master a certificate of such delivery; and no officer of Customs or other officer shall clear any foreign-going ship inwards without the production of such certificate.

(5) Any master who fails without reasonable cause so to deliver the agreement with the crew, shall be liable for each offence to a fine which may extend to fifty rupees.

**35. (1)** The master or owner of a home-trade ship of more than three hundred tons burden shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or (if the ship is not at any port in British India within twenty-one days after either the thirtieth day of June or the thirty-first day of December) within forty-eight hours of her next arrival at a port in British India, deliver or transmit to a shipping-master in British India every agreement made within the six months next preceding such days respectively.

(2) The shipping-master on receiving such agreement shall give the master or owner of the ship a certificate to that effect; and no officer of Customs or other officer authorised to grant a port-clearance shall grant a clearance for any such ship without a production of the certificate, and, if any such ship attempts to go to sea without such clearance, any such officer may detain her until the certificate is produced.

(3) Any master or owner who fails, without reasonable cause, to comply with this section shall be liable for each offence to a fine which may extend to fifty rupees.

**36. (1)** The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement, and, if necessary, a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew.

(2) Any master who fails without reasonable cause to comply with this section shall be liable for each offence to a fine which may extend to fifty rupees.

**37.** Every erasure, interlineation or alteration in any agreement with the crew (except additions made for the purpose of shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent



of all the persons interested in such erasure, interlineation or alteration by the written attestation (if made in His Majesty's dominions) of some shipping-master, Justice, officer of Customs, or other public functionary, or (if made out of His Majesty's dominions) of a British consular officer, or, where there is no such officer, of two respectable British merchants.

*Engagement of Lascars by Masters of Foreign Ships.*

38. (1) When the master of a foreign ship being at any port in British India engages any lascar or other native seaman to proceed to any port out of British India, he shall enter into an agreement with such seaman, and the agreement shall be made before a shipping-master in the manner provided by this Act for the making of agreements in the case of foreign-going ships.

(2) All the provisions of this Act, respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same, shall be applicable to the engagement of such seaman.

(3) The master of the foreign ship shall give to the shipping-master a bond with the security of some approved person resident in British India for an amount calculated at the rate of one hundred rupees for every such seaman and conditioned for the due performance of such agreement and stipulations, and for the repayment to the Secretary of State for India in Council of all expenses which may be incurred by Government in respect of any such lascar or other native seaman who is discharged or left behind at any port out of British India and becomes distressed and is relieved under the provisions of the Merchant Shipping Acts.

(4) The prescribed fees shall be payable in respect of every such engagement and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed under this Act.

39. If any lascar or other native seaman is engaged by the master of any foreign ship otherwise than is allowed in section 38, the master shall be liable to a fine which may extend to one hundred rupees for every seaman so engaged.

40. (1) The Local Government or such officer as it may appoint in this behalf may, by order in writing, prohibit any person from engaging in the territories subject to the said Government or in any specified portion of such territories, any native of India to serve as a seaman on any ship specified in such order, but in every case the reasons for the prohibition shall be stated in writing.

(2) Whoever wilfully disobeys any such prohibition shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

41. (1) For the purpose of preventing seamen from being taken on board any British ship or lascars or native seamen being taken on board any foreign ship at any port in British India contrary to the provisions of this Act, any shipping-master or deputy shipping-master may

enter at any time on board any such ship upon which he has reason to believe that seamen or lascars or native seamen, as the case may be, have been shipped, and may muster and examine the several seamen employed therein.

(2) If any person obstructs a shipping-master or deputy shipping-master in the exercise of his powers under sub-section (1), he shall be liable to a fine which may extend to one hundred rupees.

### *Discharge of Seamen.*

42. (1) When a seaman serving in a British foreign-going ship is, on the termination of his engagement, discharged in British India, he shall, whether the agreement with the crew be an agreement for the voyage or a running agreement, be discharged in the manner provided by this Act in the presence of a shipping-master.

(2) If the master or owner of the ship acts in contravention of this section, he shall, for each offence, be liable to a fine which may extend to one hundred rupees.

(3) If the master or owner of a home-trade ship, of more than three hundred tons of burden, so desires, the seamen of that ship may be discharged in the same manner as seamen discharged from a foreign-going ship.

43. (1) The master shall sign and give to a seaman discharged from his ship in British India, either on his discharge or on payment of his wages, a certificate of his discharge in a form sanctioned by the Local Government specifying the period of his service and the time and place of his discharge.

(2) If a master acts in contravention of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

(3) The master shall also, upon the discharge of every certificated officer, whose certificate of competency has been delivered to and retained by him, return the certificate to the officer, and if, without reasonable cause, he fails so to do, he shall for each offence be liable to fine which may extend to two hundred rupees.

### *Payment of Wages.*

44. (1) The master of every British ship shall, before paying off or discharging a seaman, deliver at the time and in the manner provided by this Act a full and true account in a form sanctioned by the Local Government of the seaman's wages and of all deductions to be made therefrom on any account whatever.

(2) The said account shall be delivered—

(a) where the seaman is not discharged before the shipping-master, to the seaman himself not less than twenty-four hours before his discharge or payment off; and

(b) where the seaman is to be discharged before a shipping-

master, either to the seaman himself, at or before the time of his leaving the ship, or to the shipping-master not less than twenty-four hours before the discharge or payment off.

(3) If the master of a ship fails, without reasonable cause, to comply with this section, he shall for each offence be liable to a fine which may extend to fifty rupees.

45. (1) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of this Act except in respect of a matter happening after the delivery.

Deductions from wages of seamen.

(2) The master shall, during the voyage, enter the various matters in respect of which the deductions are made, with the amount of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce the book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to that payment.

46. (1) Where a seaman is discharged before a shipping master in British India, he shall receive his wages through, or in the presence of, a shipping master unless a competent Court otherwise directs, and in such a case, if the master or owner of the ship pays his wages in British India in any other manner, he shall for each offence be liable to a fine which may extend to one hundred rupees.

Payment of wages before shipping master.

(2) If the master or owner of a home-trade ship so desires, the seamen of that ship may receive their wages in the same manner as seamen discharged from a foreign-going ship.

47. (1) The master or owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered or within five days after the seaman's discharge, whichever first happens and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him.

Time of payment of wages.

(2) If a master or owner fails without reasonable cause to make payment at that time, he shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days during which payment is delayed beyond, the respective times, but the sum payable shall not exceed 10 days' double pay.

(3) Any sum payable under this section may be recovered as wages.

48. (1) Where a seaman is discharged and the settlement of his wages completed before a shipping-master, he shall sign in the presence of the shipping-master a release in a form sanctioned by the Local Government of all claims in respect of the past voyage or engagement, and the release shall also be signed by the master or owner of the ship and attested by the shipping-master.

Settlement of wages.

(2) The release so signed and attested shall be retained by the shipping-master and shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

(3) A copy of the release, certified under the hand of the shipping-master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims, and shall have all the effect of the original of which it purports to be a copy.

(4) Where the settlement of a seaman's wages is by this Act required to be completed through, or in the presence of, a shipping-master, no payment, receipt or settlement made otherwise than in accordance with this Act shall operate or be admitted as evidence of the release or satisfaction of any claim.

(5) Upon any payment being made by a master before a shipping-master, the shipping-master shall, if required, sign and give to the master a statement of the whole amount so paid, and this statement shall, as between the master and his employer, be admissible as evidence that the master has made the payments therein mentioned.

49. (1) Where any question of whatever nature and whatever the amount in dispute between a master or owner and any of his crew is raised before a shipping-master, and both parties agree in writing to submit the same to him, the shipping-master shall hear and decide the question so submitted, and an award made by him upon the submission shall be conclusive as to the rights of parties, and any document purporting to be such submission or award shall be *prima facie* evidence thereof.

(2) An award made by a shipping-master under this section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by such Magistrate under this Act.

50. (1) In any proceedings under this Act before a shipping-master relating to the wages, claims or discharge of a seaman, the shipping-master may require the owner or his agent or the master or any mate or other member of the crew to produce any log-books, papers, or other documents in his possession or power relating to any matter in question in the proceedings, and may require the attendance of and examine any of those persons being then at or near the place on the matter.

(2) If any person so required fails, without reasonable cause to comply with the requisition, he shall for each offence be liable to a fine which may extend to fifty rupees.

51. Where a seaman or apprentice has agreed with the master of a British ship for payment of his wages in British currency the seaman or apprentice shall be entitled to demand and recover in British Indian currency the amount due to him estimated according to the rate of exchange for the time being fixed by the Secretary

Rate of exchange for payment of seamen in British Indian money.

of State for India in Council, with the concurrence of the Lords Commissioners of His Majesty's Treasury for the adjustment of financial transactions between the Imperial and the Indian Governments.

*Advance and Allotment of Wages.*

**52. (1)** Any agreement with the crew may contain a stipulation for payment to a seaman, conditional on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement.

(2) Stipulations for the allotment of a seaman's wages may be made in accordance with this Act.

(3) Save as aforesaid an agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman, conditional on his going to sea from any port in British India shall be void, and no money paid in satisfaction or in respect of any such agreement shall be deducted from the seaman's wages, and a person shall not have any right of action, suit or set off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

**53. (1)** Any stipulation made by a seaman at the commencement of a voyage for the allotment of any part of his wages during his absence shall be inserted in the agreement with the crew, and shall state the amounts and times of the payments to be made.

(2) A seaman may require that a stipulation be inserted in the agreement for the allotment, by means of an allotment note, of any part (not exceeding one-third) of his wages in favour either of a relative of the seaman or some member of his family to be named in the note.

(3) Allotment notes shall be in a form sanctioned by the Local Government.

**54. (1)** The owner or any agent who has authorised the drawing of an allotment note shall pay to the shipping-master on demand the sums due under the note, and, if he fails to do so, the shipping-master may sue for and recover the same with costs :

Provided that no such sum shall be recoverable if it is shown to the satisfaction of the Court or Magistrate trying the case that the seaman has forfeited or ceased to be entitled to the wages out of which the allotment was to have been paid, but the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the Court or Magistrate either by the official statement of the change in the crew caused by his absence made and signed by the master as by this Act is required, or by a certified copy of some entry in the official log-book to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate may consider sufficient.

(2) The shipping-master on receiving any such sum as aforesaid shall pay it over to the person named in that behalf in the allotment note.

(3) All such receipts and payments shall be entered in a book to be kept for the purpose, and all entries in the said book shall be authenticated by the signature of the shipping-master or the deputy shipping-master.

(4) The said book shall be at all reasonable times open to the inspection of the parties concerned.

*Rights of Seamen in respect of Wages.*

**55.** A seaman's right to wages and provisions shall be taken to begin either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board whichever first happens.

**56.** (1) A seaman shall not by any agreement forfeit his lien on the ship or be deprived of any remedy for the recovery of his wages to which in the absence of the agreement he would be entitled, and shall not by any agreement abandon his right to wages in case of the loss of the ship or abandon any right that he may have or obtain in the nature of salvage, and every stipulation in any agreement inconsistent with any provisions of this Act shall be void.

(2) Nothing in this section shall apply to a stipulation made by the seamen belonging to any ship which according to the terms of the agreement is to be employed on salvage service with respect to the remuneration to be paid to them for salvage service to be rendered by that ship to any other ship.

**57.** (1) The right to wages shall not depend on the earning of freight and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the same notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship cargo and stores shall bar his claim to wages.

(2) Where a seaman or apprentice who would but for death be entitled by virtue of this section to demand and recover any wages dies before the wages are paid) they shall be paid and applied in manner provided by this Act with respect to the wages of seaman who dies during a voyage.

**58.** Where the service of a seaman terminates before the date contemplated in the agreement by reason of the wreck or loss of the ship, or of his being left on shore at any place out of British India under a certificate granted as provided by the Merchant Shipping Acts of his unfitness or inability to proceed on the voyage, he shall be entitled to wages up to the time of such termination, but not for any longer period,

**59.** A seaman or apprentice shall not be entitled to wages for any time during which he unlawfully refuses or neglects to work when required whether before or after the time fixed by the agreement for his commencement of such work nor, unless the Court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

**60.** Whenever in any proceeding relating to a seaman's or apprentice's wages it is shown that a seaman or apprentice has in the course of the voyage been convicted of any offence by a competent Court and rightly punished therefor by imprisonment or otherwise, the Court hearing the case may direct any part of the wages due to the seaman or apprentice not exceeding thirty rupees to be applied to re-imbursing any cost properly incurred by the master in procuring the conviction and imprisonment.

**61.** If a seaman having signed an agreement is discharged otherwise than in accordance with the terms thereof before the commencement of the voyage or before one month's wages are earned without fault on his part justifying that discharge and without his consent, he shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage caused to him by the discharge not exceeding one month's wages, and may recover that compensation as if it were wages duly earned.

**62. (1)** As respects wages due or accruing to a seaman or apprentice—

Restriction on sale of and charge upon wages.

- (a) they shall not be subject to attachment by order of any Court ;
- (b) an assignment or sale thereof made prior to the accruing thereof shall not bind the person making the same ;
- (c) a power-of-attorney or authority for the receipt thereof shall not be irrevocable ;
- (d) a payment of wages to a seaman or apprentice shall be valid in law notwithstanding any previous sale or assignment of those wages or any attachment or encumbrance thereof.

(2) Nothing in this section shall affect the provisions of this Act or any other law for the time being in force with respect to allotment notes.

#### *Mode of recovering Wages.*

**63.** A seaman or apprentice or a person duly authorised on his behalf may, as soon as any wages due to him not exceeding five hundred rupees become payable, sue for the same in a summary manner before any Magistrate exercising jurisdiction in or near the place at which his service has terminated or at which he has been discharged, or at which any person upon whom the claim is made is or resides, and the order made by the Magistrate in the matter shall be final.

Summary proceedings for wages.

**64.** A proceeding for the recovery of wages not exceeding five hundred rupees shall not be instituted by or on behalf of any seaman or apprentice in any Colonial Court of Admiralty or in any Civil Court other than the Court of Small Causes where such a Court exists, except—

- (a) where the owner of the ship is adjudged bankrupt or declared insolvent ;
- (b) where the ship is under arrest or is sold by the authority of any Court ; or
- (c) where a Magistrate under the authority of this Act refers a claim to the Court.

Remedies of masters for wages.

**65.** (1) The master of a ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages as a seaman has under this Act or by any law or custom.

(2) If in any proceeding in any Colonial Court of Admiralty touching the claim of a master in respect of wages any right of set off or counter claim is set up, the Court may enter into and adjudicate upon all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and may direct payment of any balance found to be due.

#### *Property of Deceased Seamen.*

**66.** (1) If any seaman or apprentice belonging to a British ship the Master to take charge of the effects of deceased seamen. voyage of which is to terminate in British India dies during that voyage, the master of the ship shall take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.

(2) The master may, if he think fit, cause any effects to be sold by auction at the mast or otherwise by public auction.

(3) The master shall enter in the official log-book the following particulars, namely :—

- (a) a statement of the amount of money and a description of the effects ;
- (b) in the case of a sale, a description of each article sold and the sum received for each ; and
- (c) a statement of the sum due to the deceased for wages and of the amount of deduction, if any, to be made from the wages.

(4) The said money, effects, proceeds of sale of effects, and balance of wages, are in this Act referred to as the property of the seaman or apprentice.

**67.** (1) The master shall, within forty-eight hours after his arrival at his port of destination in British India, deliver and pay the property of any deceased seaman or apprentice to the shipping-master at that port, and shall give to such shipping-master an account of the property so delivered and paid.

(2) A deduction claimed by the master in such account shall not be



allowed unless verified, if an official log-book is required to be kept, by an entry in that book, and also by such other vouchers, if any, as may be reasonably required by the shipping-master.

68. (1) If the master fails to comply with the provisions of this Act with respect to taking charge of the property of a deceased seaman or apprentice, or to making in the official log-book the proper entries relating thereto, or to the payment or delivery of the property, he shall be accountable for the property to the shipping-master as aforesaid, and shall pay and deliver the same accordingly and shall in addition, for each offence be liable to a fine not exceeding treble the value of the property not accounted for or, if such value is not ascertained, not exceeding five hundred rupees.

(2) The property may be recovered in the same Court and manner in which the wages of seamen may be recovered under this Act.

69. Where any property of a deceased seaman or apprentice is paid or delivered to a shipping-master, the shipping-master, after deducting for expenses incurred in respect of that seaman or apprentice or of his property such sums as he thinks proper to allow, may—

(a) pay and deliver the residue to any claimants who can prove themselves to the satisfaction of the said shipping-master to be entitled thereto, and the said shipping-master shall be thereby discharged from all further liability in respect of the residue so paid or delivered ; or

(b) if he thinks fit so to do, require probate or letters of administration or a certificate under the Succession Certificate Act, 1889,\* to be taken out, and thereupon pay and deliver the residue to the legal representative of the deceased.

70. (1) Where no claim to the property of a deceased seaman or apprentice received by a shipping-master is substantiated within one year from the receipt thereof by such shipping-master, the shipping-master shall cause such property to be sold and pay the proceeds of the sale into the public treasury.

(2) If, after any money has been so paid into the public treasury, any claim is made thereto, then if the claim is established to the satisfaction of the shipping-master, the amount, or so much as shall appear to be due to the claimant, shall be paid to him, and if the claim is not so established the claimant may apply by petition to the High Court, and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just :

Provided that after the expiration of six years from the receipt of such property by the shipping-master no claim to such property shall be entertained without the sanction of the Local Government.

\* VII of 1889.

*Distressed Seamen.*

**71. (1)** A certificate of the Local Government or of such officer as the Local Government may appoint in this behalf to the effect that any seaman named therein is distressed shall in all proceedings under the Merchant Shipping Acts regarding the maintenance and relief of distressed seamen be conclusive evidence that such seaman is distressed within the meaning of those Acts.

(2) Any master of a British ship refusing to accept such seaman as a distressed seaman under the provisions of the said Acts shall for each seaman with respect to whom he so refuses be liable to a fine which may extend to one thousand rupees.

**72. (1)** Where any wages or expenses recoverable in respect of distressed seamen under the Merchant Shipping Acts, are, under the said Acts, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India, the Governor General in Council may, from time to time by notification in the Gazette of India, authorise, either generally or specially, such persons as he thinks fit to sue for and recover, in manner in the Merchant Shipping Acts provided, those wages or expenses.

(2) Every person so authorised shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of clause (7) of section 57 of the Indian Evidence Act, 1872.\*

(3) All suits and proceedings under this section shall be instituted and carried on in the name of the Secretary of State for India in Council.

*Relief of distressed Seamen to whom the Merchant Shipping Acts do not apply.*

Provisions of the Act not to apply to seamen or apprentices to whom the Merchant Shipping Acts apply.

**73.** Nothing in the following provision of this part relating to distressed seamen shall apply to seamen or apprentices to whom the provisions of the Merchant Shipping Acts apply.

**74. (1).** Where any seamen or apprentices  
Relief of distressed seamen at British Indian ports.

(a) being Indian subjects of His Majesty are found at any place in British India and have been shipwrecked, discharged or left behind whether from any British ship or from any of His Majesty's ships and are in distress in that place, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign Power, or to the subject of any foreign State, and are in distress in British India : and

\* I of 1872.

(b) not being Indian subjects have been shipwrecked discharged or left behind at any place in British India from any British ship registered in British India and are in distress in any such place, the local authority may in accordance with the prescribed conditions provide for the subsistence of those seamen and apprentices (who are herein-after referred to as distressed seamen) until such time as such authority is able to provide them with a passage as hereinafter provided.

(2) "Local authority" in relation to the provisions of this Act as to distressed seamen, means such person as the Local Government may, subject to the control of the Governor General in Council, appoint to exercise the powers conferred, and to perform the duties imposed on the local authority under this Act.

**75. (1)** Subject to the prescribed conditions the local authority may  
 Distressed seamen to be sent home on board British ship wanting seamen to make up its crew.      cause distressed seamen to be put on board some ship belonging to any subject of His Majesty which is in want of men to make up its complement and is bound—

(a) in the case of distressed seamen who are Indian subjects of His Majesty, to their home or to a port in British India near their home ;

(b) in the case of other British distressed seamen, to any port in the United Kingdom or the British possession to which they belong (as the case requires) ; and

(c) in the case of distressed seamen not being subjects of His Majesty, to such place as the local authority, subject to the control of the Governor General in Council, may in each case determine.

(2) In default of any such ship, the local authority may, subject as aforesaid, provide such distressed seamen with a passage in any ship (whether British or foreign) bound as aforesaid.

**76.** The local authority shall indorse on the agreement with the crew of any British ship on board of which any distressed seaman is sent the name of every person so sent on board thereof, with such particulars concerning the case as may be prescribed.  
 Name and other particulars with regard to seamen to be indorsed on agreement of British ship.

**77. (1)** The master of every British ship shall receive and afford a passage and subsistence to all distressed seamen whom he is required to take on board his ship under the provisions of section 75, not exceeding one for every fifty tons burden, and shall, during the passage, provide every such seaman with a proper berth or sleeping-place effectually protected against sea and weather.  
 Master of British ship compelled to convey and give subsistence to such seamen,

(2) If the master of any such ship fails or refuses to receive on board his ship, or to give a passage or subsistence to, or to provide for, any such seaman contrary to the provisions of sub-section (1), he shall, for each such seaman with respect to whom he so fails or refuses, be liable to a fine which may extend to one thousand rupees.

**78.** (1) When the master of a British ship has conveyed a distressed seaman in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of a local authority under this Act, such master shall be entitled to be paid by the Secretary of State for India in Council in respect of the subsistence and passage of such distressed seaman such sum per diem as the Governor General in Council may fix :

Provided that no such payment shall be made except on the production of the following documents (that is to say) :—

- (a) a certificate signed by the local authority by whose direction such distressed seaman was received on board, specifying the name of such seaman and the time when he was received on board ; and
- (b) a declaration in writing by such master made and verified in manner hereinafter provided, and stating—
- (i) the number of days during which such distressed seaman received subsistence and was provided for as aforesaid on board his ship :
- (ii) the number of men and boys forming the complement of his crew ;
- (iii) the number of seamen and apprentices employed on board his ship during the time such distressed seaman was on board ; and
- (iv) every variation (if any) of such number.

(2) The declaration required by this section shall, in the case of a ship conveying Indian subjects of His Majesty to a port in British India, be made before a shipping-master or such other officer as the Local Government may appoint. In other cases such declaration shall be made and verified in the same manner as declarations made under section 48 of the Merchant Shipping Act, 1906. \*

**79.** Where any expenses are incurred by a local authority under this Part on account of a distressed seaman either for his subsistence, necessary clothing, conveyance, home, and, in case he should die before reaching home, for his burial those expenses together with the wages, if any, due to the seamen) shall be a charge upon the ship, whether British or foreign, to which he belonged.

**80.** All such expenses and wages shall be recoverable with costs either from the master of such ship or from the person who is owner thereof for the time being, or, in the case of an engagement for service in a foreign ship, from such master or owner or from the person by whom such engagement was so made, in the same manner as other debts due to the Secretary of State for India in Council, or in the same manner and

\* 6 Edw. 7, c. 48.

by the same form and process in which wages due to the distressed seaman would be recoverable by him.

**81. (1)** The Local Government may, by notification in the local official Gazette, authorise, either generally or specially, such persons as it thinks fit to sue for any such expenses and wages and recover the same.

Local Government may authorise persons to recover same.

(2) Every person so authorised shall be entitled to sue and recover accordingly, and shall be deemed to be a person filling a public office within the meaning of clause (7) of section 57 of the Indian Evidence Act, 1872.

**82.** When any such expenses and wages are due to or in respect of a distressed seaman (not being an Indian subject of His Majesty) belonging to a British ship registered in British India they may, instead of being recovered by a person authorized under section 81, be recovered by the Board of Trade in manner provided by section 42 of the Merchant Shipping Act, 1906,\* and when so recovered shall be paid by the said Board to the Secretary of State for India in Council.

Board of Trade may recover such amount from master or owner in certain cases.

**83.** In all proceedings under this Part, whether in British India or elsewhere, the production of a certificate signed by the local authority by which any distressed seaman named therein was relieved, or any expenses were incurred, under this Part, to the effect that such seaman was in distress, and that such expenses were incurred in respect of such seaman, shall be sufficient evidence that such seaman was relieved, conveyed home or buried, as the case may be, at the expense of the revenues of India.

What shall be evidence of distress and expenses incurred.

**84.** The Governor General in Council may make rules to determine under what circumstances and subject to what conditions distressed seamen may be relieved and provided with passages under this Part, and generally to carry out the provisions of this Part regarding distressed seamen.

Power of Governor General in Council to make rules.

#### *Provisions, Health and Accommodation.*

**85. (1)** If three or more of the crew of a British ship consider that the provisions or water for the use of the crew are at any time of bad quality, unfit for use or deficient in quantity, they may complain thereof to any shipping-master or other officer duly appointed in this behalf by the Local Government, and the shipping master or other officer may either examine the provisions or water complained of or cause them to be examined.

Complaints as to provisions or water.

(2) If the officer or person making the examination finds that the provisions or water are of bad quality and unfit for use or deficient in quantity, he shall signify it in writing to the master of the ship.

\* 6 Edw. 7, c. 48.

(3) If the master does not thereupon provide other proper provisions or water in lieu of any so signified to be of bad quality and unfit for use, or does not procure the requisite quantity of any provisions or water so signified to be deficient in quantity, or uses any provisions or water so signified to be of bad quality and unfit for use, he shall be liable for each offence to a fine which may extend to two hundred rupees.

(4) The officer directing or the person making the examination shall enter a statement of the result of the examination in the official log-book, and shall, if he is not the shipping master, send a report thereof to the shipping-master and that report shall be admissible in evidence in any legal proceeding.

(5) If the said officer certifies in that statement that there was no reasonable ground for the complaint, each of the complainants shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

Allowance for short or bad provisions.

86. (1) In either of the following cases—

(i) if during the voyage the allowance of any of the provisions for which a seaman has by his agreement stipulated is reduced, (except in accordance with any regulations for reduction by way of punishment contained in the agreement with the crew and also except for any time during which the seaman wilfully and without sufficient cause refuses or neglects to perform his duty or is lawfully under confinement for misconduct either on board or on shore) ; or

(ii) if it is shown that any of those provisions are or have during voyage been bad in quality or unfit for use ;  
the seaman shall receive by way of compensation for that reduction or bad quality according to the time of its continuance the following sums to be paid to him in addition to and to be recoverable as wages :

(a) if his allowance is reduced by not more than one-third of the quantity specified in the agreement a sum not exceeding three annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna in the case of a lascar or native seaman ;

(b) if his allowance is reduced by more than one-third of such quantity, six annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas in the case of a lascar or native seaman ;

(c) in respect of such bad quality as aforesaid, a sum not exceeding eight annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas in the case of a lascar or native seaman.

(2) If it is shown to the satisfaction of the Court before which the case is tried that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the Court shall take those circumstances into consideration and modify or refuse the compensation as the justice of the case requires.

**87. (1)** All foreign-going British ships and home-trade ships of more than three hundred tons burden shall have Medicines to be provided and kept on board certain ships. always on board a sufficient supply of medicines and appliances suitable for diseases and accidents likely to happen on sea voyages according to such scale as is from time to time issued by the Local Government with the approval of the Governor General in Council and published in the local official Gazette.

(2) If any requirement in this section with respect to the provision of medicines and appliances is not complied with in the case of any ship, the owner or master of that ship shall for each offence be liable to a fine which may extend to two hundred rupees, unless he can prove that the non-compliance was not caused by his inattention, neglect or wilful default.

(3) This section shall not apply to ships navigating between the United Kingdom and any port in British India and to which section 200 of the Merchant Shipping Act, 1894,\* applies.

**88.** The master of a ship shall keep on board proper weights and measures for determining the quantities of the board. several provisions and articles served out and shall allow the same to be used at the time of serving out the provisions and articles in the presence of witnesses whenever any dispute arises about the quantities. If the master of a ship fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

**89. (1)** If the master of, or a seaman or apprentice belonging to, a ship registered in British India receives any Expenses of medical attendance in case of illness. hurt or injury in the service of the ship, the expense of providing the necessary surgical and medical advice and attendance and medicine. and also the expenses of the maintenance of the master, seaman or apprentice until he is cured or dies or is brought back to the port from which he was shipped or other port agreed upon, and of his conveyance to that port, and, in case of death, the expense, if any, of his burial, shall be defrayed by the owner of the ship without any deduction on that account from his wages.

(2) Where any expenses referred to in this section have been paid by the master, seaman, or apprentice himself, the same may be recovered as if they were wages duly earned, and, if any such expenses are paid or allowed out of any money forming part of the revenues of India, the amount shall be a charge upon the ship and may be recovered with full costs of suit by the Secretary of State for India in Council.

**90. (1)** Every place in a British ship which is occupied by seamen Accommodation for sea- or apprentices engaged under this Act and appropriated for their use shall have—

(a) for each European seaman or apprentice or other person shipped on the same footing as a European seaman, a space of ten superficial feet if the place be not less than six feet in height from deck to deck, or sixty cubic feet if the height from deck to deck be less than six feet ;

\* 57 and 58 Vict., c. 60.

(b) for each lascar or native seaman or person shipped on the same footing as a lascar, six superficial and thirty-six cubic feet and, if the place allotted be under the top gallant forecandle, such forecandle deck shall be not less than four feet six inches above the one below it.

(2) In every case the place shall be below a well caulked and substantial deck, securely constructed, properly ventilated and properly protected from weather and sea.

(3) If any of the foregoing requirements of this section is not complied with in the case of any ship, the owner of the ship shall for each offence be liable to a fine which may extend to two hundred rupees.

(4) Every place so occupied and appropriated shall be kept free from goods and stores of any kind not being the personal property of the crew in use during the voyage.

(5) If any such place is not so kept free the master shall for each offence be liable to a fine which may extend to one hundred rupees.

**91.** (1) The shipping-master or deputy shipping master at any port in British India may enter at any time on board any ship upon which seamen have been shipped at that port and inspect the medicines and appliances and the accommodation for seamen with which the ship is required to be provided by or under this Act or the Merchant Shipping Acts.

(2) If, on inspection, the provisions or water on board any ship are found to be of bad quality and unfit for use or deficient in quantity, the shipping-master shall proceed as provided in section 85, and the fine prescribed by the said section shall be incurred by any default of the master of the ship in respect of such provisions or water and the ship shall be detained until the defects are remedied to the satisfaction of the shipping-master.

#### *Facilities for making Complaints.*

**92.** (1) If a seaman or apprentice, whilst on board ship, states to the master that he desires to make complaint to a Magistrate against the master or any of the crew, the master shall, so soon as the service of the ship will permit,

(a) if the ship is then at a place where there is a Magistrate, after such statement, and

(b) if the ship is not then at such place, after her first arrival at such a place,

allow the complainant to go ashore or send him ashore in proper custody so that he may be enabled to make the complaint.

(2) If the master of a ship fails without reasonable cause to comply with the provisions of this section, he shall for each such offence be liable to a fine which may extend to one hundred rupees.



*Protection of Seamen from Imposition.*

**93.** Subject to the provisions of this Act an assignment or sale of salvage payable to a seaman or apprentice made prior to the accruing thereof shall not bind the person making the same, and a power-of-attorney or authority for the receipt of any such salvage shall not be irrevocable.

Assignment or sale of salvage invalid.

**94.** A debt exceeding in amount three rupees incurred by any seaman after he has engaged to serve shall not be recoverable until the service agreed for is concluded.

No debt exceeding three rupees recoverable till end of voyage.

**95.** If a person demands or receives from a seaman or apprentice payment in respect of his board or lodging in the house of that person for a longer period than the seaman or apprentice has actually resided or boarded therein, that person shall for each offence be liable to a fine which may extend to one hundred rupees.

Penalty for overcharges by lodging-house-keepers.

**96.** (1) If a person receives or takes into his possession or under his control any money or effects of a seaman or apprentice and does not return the same or pay the value thereof when required by the seaman or apprentice subject to such reduction as may be justly due to him from the seaman or apprentice in respect of board or lodging or otherwise or absconds therewith, he shall for each offence be liable to a fine which may extend to one hundred rupees.

Penalty for detaining seamen's effects.

(2) Any magistrate imposing a fine under this section may direct the amount of such money or the value of the effects subject to such deduction as aforesaid, if any, or the effects themselves to be forthwith paid or delivered to the seaman or apprentice.

**97.** If within twenty-four hours after the arrival of a ship at a port in British India a person then being on board the ship solicits a seaman to become a lodger at the house of any person letting lodgings for hire or takes out of the ship any effects of a seaman except under the personal direction of the seaman and with the permission of the master, he shall for each offence be liable to a fine which may extend to fifty rupees.

Pennlty for solicitations by lodging-house-keepers.

**98.** Where a ship is about to arrive or is arriving or has arrived at the end of the voyage and any person not being in His Majesty's service or not being duly authorised by Law for the purpose goes on board the ship without the permission of the master before the seamen lawfully leave the ship at the end of their engagement or are discharged (whichever happens last) that person shall for each offence be liable to a fine which may extend to two hundred rupees, and the master of the ship may take him into custody and deliver him up forthwith to a police officer to be taken before a magistrate to be dealt with according to the provisions of this Act.

Penalty for being on board ship without permission before seaman leave.

*Provisions as to Discipline.*

**99.** If a master, seaman or apprentice belonging to a British ship by wilful breach of duty or by neglect of duty or by reason of drunkenness—  
 Misconduct endangering life or ship.

(a) does any act tending to the immediate loss, destruction or serious damage of the ship or tending immediately to endanger the life or limb of a person belonging to or on board the ship ; or

(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage or for preserving any person belonging to or on board the ship from immediate danger to life or limb ;

he shall be liable for every such offence to a fine which may extend to one thousand rupees or to imprisonment for a term which may extend two years, or to both.

**100.** If a seaman lawfully engaged or an apprentice commits any of the following offences. he shall, notwithstanding  
 Desertion and absence without leave. anything in the Code of Criminal Procedure, 1898,\* be liable to be tried in a summary manner and to be punished as follows :—

(i) if he deserts from his ship he shall be guilty of the offence of desertion and be liable to forfeit all or any part of the effects he leaves on board and of the wages which he has then earned and also, if the desertion takes place at any place not in British India, to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to British India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him, and also he shall be liable to imprisonment for a term which may extend to twelve weeks ;

(ii) if he neglects or refuses without reasonable cause to join his ship or to proceed to sea in his ship or is absent without leave at any time within twenty-four hours of the ship's sailing from a port either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient reason from his ship or from his duty, he shall, if the offence does not amount to desertion or is not treated as such by the master, be guilty of the offence of absence without leave and be liable to forfeit out of his wages a sum not exceeding two days' pay and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay, or any expenses properly incurred in hiring a substitute, and also he shall be

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\* V of 1898,

liable to imprisonment for a term which may extend to ten weeks.

**101.** (1) If a seaman or apprentice is guilty of the offence of desertion or of absence without leave or otherwise absents himself from his ship without leave, the master, any mate, the owner, ship's husband or consignee of the ship may, with or without the assistance of police officers, convey him on board his ship, and those officers are hereby directed to give assistance if required.

(2) If the seaman or apprentice so requires he shall first be taken before some Court capable of taking cognisance of the matter to be dealt with according to law.

(3) If it appears to the Court before whom the case is brought that the seaman or apprentice has been conveyed on board or taken before the Court on improper or insufficient grounds, that Court may inflict on the master, mate, owner, ship's husband or consignee, as the case may be, a fine which may extend to two hundred rupees.

(4) The infliction of such fine shall be a bar to any action for false imprisonment in respect of the arrest.

(5) If a seaman or apprentice is imprisoned for having been guilty of the offence of desertion or of absence without leave, or for having committed any other breach of discipline, and during his imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, on the application of the master or of the owner or his agent, notwithstanding that the period of his imprisonment is not at an end, cause the seaman or apprentice to be conveyed on board his ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by them so conveyed.

**102.** Where a seaman or apprentice is brought before a Court on the ground of the offence of desertion or of absence without leave or of otherwise absents himself without leave, the Court, if the master or the owner, or his agent, so requires, may, in lieu of committing him to prison, cause him to be conveyed on board his ship for the purpose of proceeding on the voyage or deliver him to the master or any mate of the ship or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the conveyance to be paid by the offender and if necessary to be deducted from any wages which he has then earned or by virtue of his then existing engagement may afterwards be earned.

**103.** If a seaman lawfully engaged or an apprentice commits any of the following offences (in this Act referred to as an offences against discipline), he shall, notwithstanding anything in the Code of Criminal Procedure, 1898,\* be liable to be tried in a summary way and to be punished as follows, namely :—

\* V of 1898.

- (i) if he quits the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay ;
- (ii) if he is guilty of wilful disobedience to any lawful command, he shall be liable to imprisonment for a period which may extend to four weeks and shall also be liable to forfeit out of his wages a sum not exceeding two days' pay ;
- (iii) if he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty, he shall be liable to imprisonment for a term which may extend to twelve weeks, and shall also be liable for every twenty-four hours continuance of such disobedience or neglect for a sum not exceeding six days' pay or any expenses which may have been properly incurred in hiring a substitute ;
- (iv) if he assaults the master or any mate or a certificated engineer of the ship, he shall be liable to imprisonment for a term which may extend to twelve weeks ;
- (v) if he combines with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for a term which may extend to twelve weeks ;
- (vi) if he wilfully damages his ship or commits criminal misappropriation or breach of trust in respect of or wilfully damages any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal to the loss thereby sustained, and also to imprisonment for a term which may extend to twelve weeks ;
- (vii) if he is convicted of any act of smuggling whereby loss or damage is occasioned to the master or owner of the ship, he shall be liable to pay to that master or owner a sum sufficient to re-imburse the loss or damage, and the whole or a proportionate part of his wages may be retained in satisfaction on account of that liability without prejudice to any further remedy.

**104. (1)** If a seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or alleged last ship or wilfully and fraudulently makes a false statement of his own name, he shall for each offence be liable to a fine which may extend to fifty rupees.

(2) The fine may be deducted from any wages the seaman may earn by virtue of his engagement as aforesaid and shall, subject to re-imbursement of the loss or expenses, if any, occasioned by any desertion previous to the engagement, be paid and applied in the same manner as other fines under this Act.

**105.** If any offence within the meaning of this Act of desertion or absence without leave or against discipline is committed or if any act of misconduct is committed for which the offender's agreement imposes a fine and it is intended to enforce the fine,—

Entry of offences in official log.

- (i) an entry of the offence or act shall be made in the official log-book and signed by the master and also by the mate or one of the crew ; and
- (ii) the offender, if still in the ship, shall before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him and may thereupon make such reply thereto as he thinks fit ; and
- (iii) a statement of a copy of the entry having been so furnished or the entry having been so read over and in either cases the reply, if any, made by the offender shall likewise be entered and signed in manner aforesaid : and
- (iv) in any subsequent legal proceedings the entries by this section required shall, if practicable, be produced or proved, and, in default of that production or proof, the Court hearing the case may, in its discretion, refuse to receive evidence of the offence or act of misconduct.

**106.** (1) Whenever any seaman or apprentice not shipped in British India deserts or otherwise absents himself in British India without leave from a British ship in which he is engaged to serve, the master of the ship shall within forty-eight hours of discovering such desertion or absence report the same to the shipping-master or to such other officer as the Local Government appoints in this behalf, unless, in the meantime, the deserter of absentee returns.

Report of desertions and absences without leave.

(2) Any master wilfully neglecting to comply with the provisions of this section shall be liable to a fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to one month, or to both,

**107.** (1) In every case of desertion from a ship registered in British India whilst such ship is at any place out of British India, the master shall produce the entry of the desertion in the official log-book to the person authorised by the Merchant Shipping Act, 1906,\* to grant certificates for leaving seamen behind abroad ; and that person shall thereupon make and certify a copy of the entry.

Entries and certificates of desertion abroad.

(2) The master shall forthwith transfer such copy to the shipping-master at the port at which the seaman or apprentice was shipped, and the shipping-master shall, if required, cause the same to be produced in any legal proceeding.

\* 6 Edw. 7. c. 48.

(3) Such copy, if purporting to be so made and certified as aforesaid, shall, in any legal proceeding relating to such desertion, be admissible in evidence.

**108. (1)** Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion from a ship, it shall be sufficient for the person insisting on the forfeiture to show that the seaman or apprentice was duly engaged in or belonged to the ship, and either that he left the ship before the completion of the voyage or engagement or, if the voyage was to terminate in British India and the ship has not returned, that he is absent from her and that an entry of his desertion has been duly made in the official log-book.

(2) The desertion shall thereupon, so far as relates to any forfeiture of wages under this Part, be deemed to be proved unless the seaman or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship.

**109. (1)** Where any wages or effects are under this Act forfeited for desertion from a ship, they shall be applied towards reimbursing the expenses caused by the desertion to the master or the owner of the ship and, subject to that re-imbursement shall be paid into the public treasury and carried to the account of Government.

(2) For the purposes of such re-imbursement the master or the owner or his agent may, if the wages are earned subsequent to the desertion recover them in the same manner as the deserter could have recovered, them if not forfeited; and the Court in any legal proceeding relating to such wages may order them to be paid accordingly.

(3) Where wages are forfeited under the foregoing provisions of this Act in any case other than for desertion, the forfeiture shall, in the absence of any specific provision to the contrary, be for the benefit of the master or owner by whom the wages are payable.

**110.** Any question concerning the forfeiture of or deductions from the wages of a seaman or apprentice may be determined in any proceeding lawfully instituted with respect to those wages notwithstanding that the offence in respect of which the question arises, though by this Act made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding,

**111. (1)** If a seaman contracts for wages by the voyage or by the run or by the share and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be an amount bearing the same proportion to the whole wages or share as a month or any other period here in before mentioned in fixing the amount of forfeiture (as the case may be) bears to the whole time spent in the voyage or run,

(2) If the whole time spent in the voyage or run does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Payment of fines imposed under agreement to shipping-master.

**112.** (1) Every fine imposed on a seaman for any act of misconduct for which his agreement imposes a fine shall be deducted and paid over as follows, namely :—

(i) if the offender is discharged at any port or place in British India, and the offence and such entries in respect thereof as aforesaid are proved, in the case of a foreign-going ship to the satisfaction of the shipping-master before whom the offender is discharged, and in the case of a home-trade ship to the satisfaction of the shipping-master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such shipping-master ; and

(ii) if before the final discharge of the crew in British India, any such offender as aforesaid enters into any of His Majesty's ships or is discharged at any place not in British India, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters or of the consular officer, officer of Customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book (if any) and signed by such officer or other person ; and on the return of the ship to British India, the master or owner shall pay over such fine, in the case of foreign-going ships to the shipping-master before whom the crew is discharged, and in the case of home-trade ships to the shipping-master at or nearest to the place at which the crew is discharged.

(2) If any master or owner neglects or refuses so to pay over the fine he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him.

(3) An act of misconduct for which any such fine has been inflicted and paid shall not be otherwise punished under the provisions of this Act.

**113.** If a person by any means whatever persuades or attempts to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in or desert from his ship, or otherwise to absent himself from his duty, he shall for each offence in respect of each seaman or apprentice be liable to a fine which may extend to one hundred rupees.

**114.** If a person wilfully harbours or secretes a seaman or apprentice who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe the seaman or apprentice to have so done, he shall for every seaman or apprentice so harboured or secreted be liable to a fine which may extend to one hundred rupees.

**115. (1)** If a person secrets himself and goes to sea in a ship without the consent of either the owner, consignee or master, or of a mate, or of the person in charge of the ship or of any other person entitled to give that consent, he shall be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to four weeks.

Penalty on stowaways and discipline of stowaways and seamen carried under compulsion.

**(2)** Every sea-faring person whom the master of a ship is under the authority of this Act or any other law compelled to take on board and convey, and every person who goes to sea in a ship without such consent as aforesaid, shall, so long as he remains in the ship, be subject to the same laws and regulations for preserving discipline and to the same fines and punishments for offences constituting or tending to a breach of discipline as if he were a member of and had signed the agreement with the crew.

**116. (1)** If any seaman or apprentice who is not shipped in British India is imprisoned on complaint made by or on behalf of the master or owner of the ship or for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, then—

Procedure where seaman or apprentice not shipped in British India is imprisoned on complaint of master or owner.

**(a)** while such imprisonment lasts, no person shall, without the previous sanction in writing of the Local Government or of such officer as it may appoint in this behalf, engage any native of India to serve as a seaman on board such ship ; and

**(b)** the Local Government or such officer as it may appoint in this behalf may tender such seaman or apprentice to the master or owner of the ship in which he is engaged to serve, and if such master or owner, without assigning reasons satisfactory to the Local Government or to such officer as aforesaid, refuses to receive him on board, may require such master or owner to deposit in the local shipping office—

**(i)** the wages due to such seaman or apprentice and his money and effects ; and

**(ii)** such sum as may, in the opinion of the Local Government or such officer as aforesaid, be sufficient to defray the cost of the passage of such seaman or apprentice to the port at which he was shipped according to the scale of costs usual in the case of distressed seamen.

**(2)** If any person wilfully disobeys the prohibition contained in clause **(a)** of sub-section **(1)**, he shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

**(3)** Any master or owner refusing or neglecting to deposit any wages, money, effects or sum when so required by this section, shall be liable to a fine which may extend to five hundred rupees.



**117.** If any seaman or apprentice who is not shipped in British India is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, at the request of the master or owner or his agent, cause the seaman or apprentice to be conveyed on board the ship for the purpose of proceeding on the voyage or to be delivered to the master or any mate of the ship or to the owner or his agent to be by them so conveyed, notwithstanding that the period for which he was sentenced to imprisonment has not terminated.

**118.** (1) If during the progress of a voyage the master of any ship registered in British India is removed or superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and the crew thereof which are in his custody and shall in default be liable to a fine which may extend to one thousand rupees.

(2) Such successor shall immediately on assuming the command of the ship enter in the official log-book a list of the documents so delivered to him.

*Leaving Seamen or Apprentices in British India.*

**119.** (1) No seaman or apprentice who was not shipped in British India shall be discharged at any port in British India without the previous sanction in writing of such officer as the Local Government appoints in this behalf. Such sanction shall be given or withheld at the discretion of the officer so appointed, but whenever it is withheld, the reasons for so withholding it shall be recorded by him in writing.

(2) If any person discharges a seaman or apprentice in wilful disobedience to the prohibition contained in sub-section (1), he shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

*Official Logs.*

**120.** (1) An official log shall be kept in every ship registered in British India except home-trade ships not exceeding three hundred tons burden in the from sanctioned by the Local Government.

(2) The official log may, at the discretion of the master or owner, be kept distinct from or united with the ordinary ship's log so that in all cases the spaces in the official log-book be duly filled up.

(3) An entry required by this Act in the official log-book shall be made as soon as possible after the occurrence to which it relates, and, if

not made on the same day as that occurrence, shall be made and dated so as to show the date of the occurrence and of the entry respecting it ; and if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge, shall not be made more than twenty-four hours after that arrival.

(4) Every entry in the official log-book shall be signed by the master and by the mate or some other of the crew and also—

(a) if it is an entry of injury or death, shall be signed by the Surgeon or medical practitioner on board, if any ; and

(b) if it is an entry of wages due to or of the sale of the effects of a seaman or apprentice who dies, shall be signed by the mate and by some member of the crew besides the master ; and

(c) if it is an entry of wages due to a seaman who enters His Majesty's naval service, shall be signed by the seaman or by the officer authorised to receive the seaman into that service.

(5) Every entry made in an official log-book in the manner provided by this Act shall be admissible in evidence.

**121.** The master of a ship for which an official log is required shall enter or cause to be entered in the official log-book the following matters, namely :—

Entries required in official logbook.

- (i) every conviction by a legal tribunal of a member of his crew, and the punishment inflicted ;
- (ii) every offence committed by a member of his crew for which it is intended to prosecute or to enforce a forfeiture or exact a fine together with such statement concerning the reading over of that entry, and concerning the reply (if any) made to the charge as is by this Act required ;
- (iii) every offence for which punishment is inflicted on board and the punishment inflicted ;
- (iv) a statement of the conduct, character and qualifications of each of his crew, or a statement that he declines to give an opinion on those particulars ;
- (v) every case of illness or injury happening to a member of the crew with the nature thereof, and the medical treatment adopted (if any) ;
- (vi) every case of death happening on board and the cause thereof ;
- (vii) every birth happening on board with the sex of the infant and the names of the parents ;
- (viii) every marriage taking place on board with the names and ages of the parties ;
- (ix) the name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof ;
- (x) the wages due to any seaman who enters His Majesty's naval service during the voyage ;

- (xi) the wages due to any seaman or apprentice who dies during the voyage and the gross amount of all deductions to be made therefrom ;
- (xii) the sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it ;
- (xiii) every collision with any other ship and the circumstances under which the same occurred.

**122.** (1) If an official log-book is not kept in the manner required by this Act, or if an entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act, the master shall, if no other penalty is provided by this Act, be liable for each offence to a fine which may extend to fifty rupees.

(2) If any person makes or procures to be made or assists in making any entry in any official log-book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival, he shall for each offence be liable to a fine which may extend to three hundred rupees.

(3) If any person wilfully destroys or mutilates or renders illegible any entry in any official log book or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log-book, he shall be liable to imprisonment for a term which may extend to one year.

**123** (1) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in British India or upon the discharge of the crew, whichever first happens, deliver the official log-book of the voyage to the shipping-master before whom the crew is discharged.

(2) The master or owner of every home-trade ship, for which an official log is required to be kept, shall, within twenty-one days of the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some shipping-master in British India the official log-book for the preceding half-year.

(3) If the master or owner of a ship fails without reasonable cause to comply with this section, he shall be liable to a fine which may extend to two hundred rupees.

**124.** (1) Where, by reason of transfer of ownership or change of employment of a ship, the official log ceases to be required in respect of the ship or to be required on the same date, the master or owner of the ship shall, if the ship is then in British India, within one month, and, if she is elsewhere, within six months, after the cessation, deliver or transmit to the shipping-master at the port to which the ship belonged the official log book, if any, duly made out at the time of the cessation.

(2) If a ship is lost or abandoned the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping master at the port to which the ship belonged the official log-book, if any, duly made out to the time of the loss or abandonment.

(3) If the master or owner of the ships fails without reasonable cause to comply with the provisions of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

### PART III.

#### PASSENGER SHIPS.

##### *Survey of Passenger Ship.*

**125.** (1) No steam ship shall carry more than twelve passengers between places in British India or to or from any place in British India from or to any place out of British India, unless she has a certificate of survey under this Part in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

(2) Nothing in sub-section (1) shall apply to—

- (a) any steam-ship having a certificate of survey granted by the Board of Trade, or by the Government of any part of His Majesty's dominions where such certificate has been declared under section 284 of the Merchant Shipping Act, 1894,\* to be of the same force as if granted under that Act, unless it appears from the certificate that it is inapplicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed, or unless there is reason to believe that the steam ship has, since the grant of the certificate, sustained injury or damage or been found unseaworthy or otherwise inefficient ; or
- (b) any steam-ship having a certificate of survey granted under the Inland Steam-vessels Act, 1917,† in force and applicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed ; or
- (c) any steam-ship carrying passengers during the interval between the time at which her certificate of survey under this Part expires and the time at which it is first practicable to have the certificate renewed.

**126.** The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that all or any of the provisions of this Part relating to the survey of steam-ships shall not apply in the case of any specified steam-ship or class of steam-ships, or shall apply thereto with such modifications as the Local Government may direct.

\* 57 and 58 Vict., c. 60.

† I of 1917.

**127.** No officer of Customs shall grant a port-clearance, nor shall any pilot be assigned, to any steam-ship for which a certificate of survey is required by this Part until after the production by the owner or master thereof of a certificate under this Part in force and applicable to the voyage on which she is about to proceed and the service on which she is about to be employed.

**128.** If any steam-ship for which a certificate of survey is required by this Part leaves or attempts to leave any port of survey without a certificate, any officer of Customs or any pilot on board the steam-ship may detain her until she obtains a certificate.

**129.** The Local Government may appoint so many persons as it thinks fit to be surveyors for the purposes of this Part at such ports within the territories under its administration as it may appoint to be ports of survey.

**130.** (1) For the purpose of a survey under this Part, any surveyor appointed under this Part may, at any reasonable time, go on board a steam-ship, and may inspect the steam-ship and any part thereof, and the machinery, equipments or articles on board thereof :

Provided that he does not unnecessarily hinder the loading or unloading of the steam-ship, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam-ship shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-ship and her machinery and equipment, or any part thereof, respectively, as he reasonably requires.

**131.** Before a survey under this Part is commenced, the owner or master of the steam-ship to be surveyed shall pay to such officer as the Local Government may appoint in this behalf—

(a) a fee calculated on the tonnage of the steam-ship according to the rates in Schedule II or according to any other prescribed rates ; and

(b) when the survey is to be made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the port, as the Local Government may, by notification in the local official Gazette, direct.

**132.** A survey under this Part shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by order in writing, so directs, either generally in the case of all steam-ships at any port of survey, or specially in the case of any particular steam-ship or class of steam-ships at any such port.

**133.** When a survey is made under this Part by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Part of the rules made thereunder to a surveyor making a survey.

Division of duties when two surveyors employed.

**134.** When a survey under this Part is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-ship surveyed a declaration of survey in the prescribed form containing the following particulars, namely :—

Declaration of surveyor.

- (a) that the hull and machinery of the steam-ship are sufficient for the service intended and in good condition ;
- (b) that the equipments of the steam-ship and the certificates of the master, mate or mates, and engineer or engineers or engine-driver, are such and in such condition as are required by any law for the time being in force and applicable to the steam-ship ;
- (c) the time (if less than one year) for which the hull, machinery and equipments of the steam-ship will be sufficient ;
- (d) the limit (if any) beyond which, as regards the hull, machinery or equipments, the steam-ship is in the surveyor's judgment not fit to ply ;
- (e) the number of passengers which the steam-ship is, in the judgment of the surveyor, fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins ; the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances, as the case requires ; and
- (f) any other prescribed particulars.

**135.** (1) The owner or master to whom a declaration of survey is given shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government may appoint in this behalf.

Sending of declaration by owner or master to Local Government.

(2) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(3) The owner or master shall pay any sum so forfeited on the delivery of the certificate of survey.

**136.** (1) Upon receipt of a declaration of survey, the Local Government shall, if satisfied that the provisions of this Part have been complied with, cause a certificate, in duplicate, to be prepared and delivered, through such officer at the port at which the steam-ship was surveyed as the Local Government may appoint in this behalf, to the owner or master of the steam-ship surveyed, on

Grant of certificate of survey by Local Government.

his applying and paying the sums (if any) mentioned in this Part as payable on delivery of a certificate.

(2) A certificate granted under this section shall be in the prescribed form; shall contain a statement to the effect that the provisions of this Part with respect to the survey of the steam-ship and the transmission of the declaration of survey in respect thereof have been complied with; and shall set forth—

(a) the particulars concerning the steam-ship which clauses (c), (d) and (e) of section 134 require the declaration by the surveyor to contain; and

(b) any other prescribed particulars.

(3) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-ship to which the certificate relates.

(4) The Local Government may delegate to any person—

(a) the function, assigned to the Local Government by sub-section (1), of granting a certificate of survey under that sub-section;

(b) the function, assigned to the Local Government by sub-section (3), of causing notice to be given of a certificate of survey being ready for delivery;

Provided, with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorise the grant of a certificate of survey by the surveyor who gave the declaration of survey.

**137.** (1) If the surveyor or surveyors making a survey under this Act refuses or refuse to give a declaration of survey under section 134 with regard to any steam-ship, or gives or give a declaration with which the owner or master of the steam-ship surveyed is dissatisfied, the Local Government may, on the application of the owner or master, and the payment by him of such fee not exceeding twice the amount of the fee for the previous survey, as the Local Government may require, direct two other surveyor appointed under this Part to survey the steam-ship.

(2) The surveyors so directed shall forthwith survey the steam-ship, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to them proper, and their decision shall be final.

**138.** A certificate of survey granted under this Part shall not be in force—  
Duration of certificates of survey.

- (a) after the expiration of one year from the date thereof; or
- (b) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipments

have been stated in the certificate to be sufficient ;  
or

- (c) after notice has been given, by the Local Government, to the owner or master of the steam ship to which the certificate relates that the Local Government has cancelled or suspended it.

**139.** Any certificate of survey granted under this Part may be cancelled or suspended by a Local Government if it has reason to believe—  
Cancellation or suspension of certificate of survey by Local Government.

- (a) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-ship has been fraudulently or erroneously made ; or  
(b) that the certificate has otherwise been issued upon false or erroneous information ; or  
(c) that, since the making of the declaration, the hull, boilers, engines or any of the equipments of the steam-ship have sustained any injury, or have otherwise become insufficient.

**140.** (1) The Local Government may require any certificate of survey granted under this Part which has expired, or has been cancelled or suspended, to be delivered up to such persons as it directs.  
Power to require delivery of expired or cancelled certificate of survey,

(2) If the owner or master of a steam-ship, without reasonable cause, neglects or refuses to deliver up a certificate when required to do so under this section, he shall be liable to a fine which may extend to one hundred rupees.

**141.** If the Local Government which cancels or suspends a certificate of survey granted under this Part is not the Local Government which or whose delegate granted the certificate, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons thereof, to the Local Government which or whose delegate granted the certificate.  
Report of cancellation or suspension of certain certificates.

**142.** (1) The owner or master of every steamship for which a certificate of survey has been granted under this Part shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as the certificate remains in force and the steam-ship is in use, on some conspicuous part of the steam-ship where it may be easily read by all persons on board thereof.  
Certificate of survey to be affixed in conspicuous part of steam-ship.

(2) If the certificate is not so kept affixed the owner and master of the steam-ship shall each be liable to a fine which may extend to one hundred rupees.



**143.** If a steam-ship on any voyage carries or attempts to carry passengers in contravention of section 125 or has on board in any part thereof a number of passengers which is greater than the number set forth in the certificate of survey as the number of passengers which the steam-ship or the part thereof is fit to carry on that voyage, the owner and the master shall each be punishable with a fine which may extend to one thousand rupees, and also with an additional fine not exceeding twenty rupees for every passenger above the number so set forth, or, if the fare of any passenger on board exceeds twenty rupees, not exceeding double the amount of the fares of all the passengers above the number so set forth, reckoned at the highest rate of fare payable by any passenger on board ; and if the master or any other officer of any steam-ship which carries or attempts to carry passengers in contravention of section 125 is a licensed pilot he shall be liable to have his licence as a pilot suspended or cancelled for any period by the Local Government.

**144. (1)** When steam-ship requires to be furnished with a certificate of survey under this Part and the Local Government is satisfied, by the production of a certificate of survey or certificates of partial survey, that the ship has been officially surveyed at a foreign port, and that the requirements of this Act are proved by that survey to have been substantially complied with the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Part ;

Provided that this subsection shall not apply in the case of a foreign steam ship to an official survey at any foreign port with respect to which His Majesty has by Order in Council directed that section 363 of the Merchant Shipping Act, 1894,\* shall not apply.

**(2)** When the Local Government has by notification in the local official Gazette, declared that it is satisfied that an official survey at any foreign port specified in the declaration is such as to prove that the requirements of this Act have been substantially complied with, any person appointed by the Local Government in this behalf may exercise the power to dispense with a survey and to give a certificate conferred on the Local Government by subsection (1) in the case of any steam ship furnished with a valid certificate of survey granted at such foreign port and duly attested by the British Consular officer at that port.

**(3)** The procedure prescribed in sub-section (1) shall be applicable in the case of steam-ships furnished with valid certificates of partial survey, including docking certificates, granted by the Board of Trade or any British Colonial Government, as if they were steam-ships

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\* 57 and 58 Vict., C 60.

furnished with like certificates of survey granted at foreign ports, subject to the modification that the powers of the Local Government under the said sub-section may be exercised by any person appointed by the Local Government in this behalf.

**145.** (1) The Local Government may, subject to the condition of previous publication and the sanction of the Governor General in Council, make rules to regulate the making of surveys under this Part.

Power for Local Gov-  
ernment to make rules  
as to surveys.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) declare the times and places at which, and the manner in which, surveys are to be made ;
- (b) regulate the duties of such of the surveyor making a survey and, where two surveyors are employed, assign the respective duties of each of the surveyors employed ;
- (c) declare the form in the declarations of surveyors and certificates of survey under this Part are to be framed, and the nature of the particulars which are to be stated therein, respectively ; and
- (d) fix the rates according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the ports of survey within the territories under its administration.

*Provisions in case of Wreck of Ships carrying Steerage Passengers.*

**146.** (1) The provisions contained in Part I of Schedule III (being sections 332, 333, 334 and 335 of the Merchant Shipping Act, 1894\*) are declared applicable to ships carrying steerage passengers upon the following voyages, namely :—

Application of certain  
sections of Merchant  
Shipping Act, 1894, in  
case of wreck of ship carry-  
ing steerage passengers on  
certain voyage.

- (a) voyages from the ports of Calcutta, Madras and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Nevis and Figi ;
- (b) voyages from the ports of Calcutta, Madras and Bombay to the French Colonies of Reunion, Martinique, Guadeloupe and its dependencies, and Guiana ;
- (c) voyages from the ports of Calcutta, Madras and Bombay to the Netherlands Colony of Dutch Guiana ;
- (d) voyages from the ports of Calcutta Madras and Bombay to the Danish' Colony of St. Croix ;
- (e) voyages under Part IV of this Act (which relates to native passenger ships) from Calcutta, Madras, Bombay, Karachi, Rangoon and other ports in British India to the Straits Settlements to the Protected Native States adjoining the

\* 57 & 58 Vict., C. 60.

Stratis Settlements, to Australia, and to ports in the Red Sea, Gulf of Aden of Persian Gulf and on the East Coast of Africa.

(2) This section shall not come into operation until His Majesty's pleasure thereon has been publicly signified by notification in the Gazette of India.

(3) On such signification of such pleasure, the India Sea Passengers Act, 1885,\* shall be repealed.

## PART IV.

### NATIVE PASSENGER SHIPS AND PILGRIM SHIPS.

**147.** (1) This Part applies—

Application of Part.

- (a) to all ~~subjects~~ of His Majesty within the dominions of Princes and States in India ;
- (b) to all Indian subjects of His Majesty without and beyond British India.

(2) But the provisions of this Part relating to native passenger ships do not apply—

- (a) to any steam-ship not carrying as passenger more than sixty natives of Asia or Africa,
- (b) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India, or
- (c) to any ships to which the provisions of the Inland Steam Vessels Act, 1917,† are applicable.

(3) Notwithstanding anything in sub-sections (1) and (2), the Local Government may, with the previous sanction of the Governor General in Council, declare all or any of the provisions of this Part relating to native passenger ships to apply to sailing-ships, or any class of sailing-ships, carrying as passengers more than fifteen natives of Asia or Africa, and to steam-ships, or any class of steam-ships, carrying as passengers more than thirty such persons.

**148.** (1) The Local Government, with the previous sanction of the Governor General Council, may subject to such condition as it thinks fit, exempt any ship or class of ships from any provision of this Part relating to native passenger ships.

(2) In imposing a condition under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

\* XII. of 1885.

† I of 1917.

## Definitions.

**149.** In this Part, unless there is anything repugnant in the subject or context,—

(1) "native passenger" means a passenger by a ship who is a native of Asia or Africa of the age of twelve years or upwards and is not on the articles of the ship as one of the crew ; but it does not include either a passenger in attendance on a person who is not a native of Asia or Africa or a child under one year of age ; and in the computation of passengers for any of the purposes of this Part, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger ;

(2) "native passenger ship" means, save as otherwise provided in this Part, a ship carrying more than thirty native passengers ;

(3) "pilgrim" means a Muhammadan passenger going to, or returning from, the Hedjaz ; but it does not include a child under one year of age, and, in the computation of pilgrims for all or any of the purposes of this Act, the Governor General in Council may, by notification in the Gazette of India, direct that two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one pilgrim ;

*Explanation I.*—A Muhammadan passenger who has embarked with the intention of going to the Hedjaz, but is returning without having actually landed there, shall be deemed to be a pilgrim for the purposes of this Act :

*Explanation II.*—Every passenger, whether a pilgrim or not, on board a pilgrim ship shall be deemed to be a pilgrim for the purposes of this Part ;

(4) "pilgrim ship" means a ship conveying or about to convey pilgrims from or to any port in British India to or from any port in the Red Sea other than Suez :

Provided that no ship carrying passengers other than pilgrims of the lowest class and having on board pilgrims of the lowest class in a less proportion than one pilgrim for every one hundred tons of the gross tonnage of the ship shall be deemed to be a pilgrim ship within the meaning of this Act.

*Explanation.*—"A pilgrim of the lowest class" is a pilgrim for whom no separate accommodation in any cabin, state-room or saloon is reserved :

(5) "voyage" means the whole distance between the ship's port or place of departure and her final port or place of arrival :

(6) "Chief Customs-officer" means the chief executive officer of sea-customs in any port or place to which this Part applies.

*General Provisions as to Native Passenger and Pilgrim Ships.*

**150.** (1) A native passenger ship shall not, nor shall a pilgrim ship, depart or proceed from, or discharge native passengers or pilgrims, as the case may be, at any port or place within British India other than a port or place appointed in this behalf by the Local Government for native passenger ships or pilgrim ships, as the case may be.

(2) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as a native passenger or pilgrim, as the case may be, except at some other port or place so appointed.

**151.** (1) The master, owner or agent of a native passenger or pilgrim ship so departing or proceeding shall give notice of sailing. Notice to be given of day of sailing. to an officer, appointed in this behalf by the Local Government, that the ship is to carry native passengers or pilgrims and of her destination and of the proposed time of sailing.

(2) The notice shall be given—

(a) in the case of a native passenger ship not less than twenty-four hours before that time ;

(b) in the case of a pilgrim ship at the original port of departure if in British India, and in other cases at the first port at which she touches in British India, not less than three days and at all other ports not less than twenty-four hours before that time.

**152.** After receiving the notice, the officer or a person authorised by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores on board. Power to enter on and inspect ship.

**153.** (1) A ship intended to carry native passengers or pilgrims shall not commence a voyage from a port or place appointed under this Part, unless the master holds two certificates to the effect mentioned in the two next following sections. Ship not to sail without two certificates.

(2) The officer whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

**154.** The first of the certificates (hereinafter called "certificate A") shall state that the ship is sea-worthy and properly equipped, fitted, and ventilated, and— Contents of certificate A.

(a) in the case of a native passenger ship, the number of passengers which she is capable of carrying ;

(b) in the case of a pilgrim ship, the number of pilgrims of each class which she is capable of carrying.

**155.** The second of the certificates (hereinafter called "certificate B") shall state— Contents of certificate B.

(a) the voyage which the ship is to make, and the intermediate ports (if any) at which she is to touch ;

(b) that she has the proper complement of officers and seamen ;

(c) that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for native passengers or pilgrim ships, as the case may be, have been placed on board, of the quality prescribed properly packed, and sufficient to supply the native passengers or pilgrims on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the prescribed scale ;

(d) that the master holds certificate A ;

(e) in the case of a native passenger ship if the ship is to make a short voyage, as hereinafter defined, in a season of foul

weather, and to carry upperdeck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather ;

(f) in the case of a native passenger ship, if she is to carry passengers to any port in the Red Sea, that she is propelled principally by steam, and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in the prescribed manner ;

(g) in the case of a pilgrim ship, that she is propelled principally by steam and that she is of the tonnage and steam power (if any) prescribed ;

(h) in the case of a pilgrim ship, if she is to carry more than one hundred pilgrims, that she has on board the medical officer or officers required by this Part and the prescribed attendants, and

(i) such other particulars, if any, as may be prescribed for native passenger or pilgrim ships, as the case may be.

**156.** If an officer appointed in this behalf by the Local Government is satisfied that a native passenger or pilgrim has brought on board a native passenger or pilgrim ship for his own use food of the quality and in the quantity prescribed, the requirements of this Part, respecting the supply of food for passengers or pilgrims, shall not apply so far as regards the supply of food for that passenger or pilgrim.

**157.** The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 151 who is hereinafter referred to as the certifying officer.

**158.** Where the master of a ship produces to the certifying officer one of the certificates of survey referred to in sections 136 and 144 in respect of the ship in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed, the certifying officer may, if the particulars required by section 154 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Part.

**159.** (1) After receiving the notice required by section 151 the certifying officer may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is in their opinion, seaworthy and properly equipped, fitted and ventilated for the service on which she is to be employed :

Provided that he shall not cause a ship holding one of the certificates of survey referred to in Part III to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the service on which she is to be employed.

(2) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for the service on which she is to be employed, the expense of the survey shall be paid by the Local Government.

**160.** (1) The certifying officer shall not grant a certificate unless he is satisfied that the ship has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the native passengers or pilgrims.

(2) Save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the certifying officer to grant or withhold the certificate.

(3) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government appoints in this behalf.

**161.** The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this part in respect of the ship, and shall keep those copies so posted up throughout the voyage.

**162.** (1) If a native passenger or pilgrim ship departs or proceeds on a voyage from, or discharges native passengers or pilgrims at, any port or place within British India in contravention of the provisions of this Part, or if a person is received as a native passenger or pilgrim on board any such ship in contravention of the provisions of this Part, the master or owner shall, for every native passenger or pilgrim carried in the ship, or for every native passenger or pilgrim so discharged or received on board, be liable to a fine which may extend to one hundred rupees or to imprisonment for a term which may extend to one month, or to both :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

(2) The ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Part by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Part with all costs, has been enforced, under the provisions of this Part.

**163.** If a person impedes or refuses to allow any entry or inspection authorised by or under this Part, he shall be liable to a fine which may extend to five hundred rupees for each offence, or to imprisonment for a term which may extend to three months, or to both.

**164.** If the master or owner of a native passenger or pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of this Part with respect to the posting of copies of certificates, he shall be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

**165.** If the master of a native passenger or pilgrim ship after having obtained any of the certificates mentioned in this Part fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her native passengers or pilgrims, as the case may be, or other matters to which the certificate relates, he shall be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

**166.** If the master of a native passenger or pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any passenger or pilgrim the prescribe allowance of food, fuel and water, as required by the provisions of this Part, he shall be liable to a fine which may extend to twenty rupees for every native passenger or pilgrim who has sustained detriment by the omission.

**167. (1)** If a native passenger or pilgrim ship has on board a number of native passengers or pilgrims which is greater than the number allowed for the ship by or under this Part, the master and owner shall, for every such passenger or pilgrim over and above that number, be each liable to a fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger or pilgrim :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

**(2)** Any officer authorised in this behalf by the Local Government may cause all native passengers or pilgrims over and above the number allowed by or under this Part to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Part, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

**168** If the master of a native passenger or pilgrim ship lands any native passenger or pilgrim at any port or place other than the port or place at which the native passenger or pilgrim may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.



**169.** If a native passenger or pilgrim ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the native passengers or pilgrims with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

**170.** (1) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place within British India at which a native passenger or pilgrim ship touches or arrives, shall, with advertence to the provisions of this Part send any particulars which he may deem important respecting the native passenger or pilgrim ship, and the native passengers or pilgrims carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within British India where the native passengers or pilgrims or any of them embarked or are to be discharged.

(2) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place in British India at which a ship to which this Part applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of native passengers or pilgrims and other matters have been complied with.

**171.** In any proceeding for the adjudication of any penalty incurred under this Part any document purporting to be a report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of His Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Part is held.

**172.** The penalties to which masters and owners of native passenger and pilgrim ships are made liable by this Part shall be enforced only on information laid at the instance of a certifying officer, or at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

**173.** The Local Government shall appoint such persons as it thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Part or may be conferred and imposed thereunder.

*Special Provisions relating to Native Passenger Ships.*

**174.** (1) "Long voyage" means, subject to the provisions of this Part relating to native passenger ships, any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port.

(2) "Short voyage" means, subject to the provisions of this Part relating to native passenger ships, any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port.

**175.** The Governor General in Council may declare, by notification in the Gazette of India, what shall be deemed to be, for the purposes of this Part relating to native passenger-ships, "seasons of fair weather" and "seasons of foul weather", and, for sailing-ships and steam-ships, respectively, a "long voyage" and a "short voyage."

Power to declare what shall be deemed "seasons of fair weather", "seasons of foul weather" and "long voyages" and "short voyages".

**176.** (1) For seasons of fair weather, a native passenger ship performing a short voyage shall, subject to the provisions of this Part, contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

(2) For seasons of foul weather, a native passenger ship propelled by sails and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(3) For seasons of foul weather, a native passenger ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage shall, subject as aforesaid, contain in the between decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger and on the upper-deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(4) In seasons of foul weather a native passenger ship shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

**177.** If a native passenger ship performing a short voyage takes additional native passengers on board at an intermediate port or place, the master shall obtain from the certifying officer at that port or place a supplementary certificate stating—

Ship taking additional passengers at intermediate place.

(a) the number of native passengers so taken on board and

- (b) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship, have been placed on board, of the quality prescribed, properly packed and sufficient to supply the native passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed :

Provided that, if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her have been placed on board, of the quality prescribed by the rules, properly packed and sufficient to supply the full number of native passengers which she is capable of carrying the master shall not be bound to obtain any such supplementary certificate.

**178.** When the ship after performing a short voyage reaches her final port or place of arrival, the master shall notify Deaths on voyage. to such officer as the Local Government appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage.

**179.** (1) A native passenger ship propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger.

(2) A native passenger ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

**180.** The master of a native passenger ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements specifying the number and the respective sexes of all the native passengers, and the number of the crew, and shall deliver them to the certifying officer, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

**181.** The master of any such ship shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any native passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place where it may be intended to land native passengers, and before any passenger leaves the ship, produce the statement with any additions made thereto to a person lawfully exercising consular authority on behalf of His Majesty at the port or place, or to the Chief Customs-officer thereat or the certifying officer, if any, appointed there.

Ship taking additional  
passengers at Intermediate  
place.

**182.** (1) In either of the following cases, namely,—

- (a) if after the ship has departed or proceeded on a long voyage any additional native passengers are taken on board at a port or place within British India appointed under this Part for the embarkation of native passengers, or
- (b) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional native passengers at any place beyond British India.

he master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(2) All the foregoing provisions of this Part with respect to certificate B and statements concerning native passengers shall be applicable to any certificate granted or statement made under this section.

**183.** (1) A ship carrying native passengers from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

Certain ships to be propelled by steam.

(2) If this section is not complied with, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both.

**184.** (1) A ship carrying more than one hundred native passengers from or to any port in British India to or from any port in the Red Sea shall have on board a medical officer licensed in the prescribed manner.

Certain ships to carry medical officer.

(2) If this section is not complied with, the master shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

**185.** (1) A ship carrying native passengers from or to any port in British India other than Aden to or from any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

Ships carrying passengers to or from port in Red Sea to touch at Aden.

(2) If the master without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden or leaves that port without having obtained a bill of health under this section, he shall, for every such offence, be liable to a fine which may extend to two thousand rupees or to imprisonment for a term which may extend to six months or to both.

1821

(3) If, in the case of any such ship as is referred to in this section, the master or the medical officer, if any, of the ship without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Part applicable to the ship, he shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

**186.** The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of native passengers than the number allowed for the ship by or under this Part, and may refuse to grant it if the requirements of any rule under this Part are not complied with on board the ship.

**187.** In the case of a ship carrying native passengers from any port in British India other than Aden to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for the ship shall not grant the clearance unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees, conditioned—

(a) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty native passengers, and

(b) that the master and medical officer (if any) of the ship shall on outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty native passengers, comply with the provisions of this Part and of such rules relating to ships carrying native passengers between ports in British India and ports in the Red Sea as the Governor General in Council may make under this Part.

**188.** (1) The Local Government may direct that no native passenger shall be received on board any ship, or any ship of a specified class, carrying native passengers from any port in British India to any port in the Red Sea, unless and until the passenger has been inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose.

(2) If, in the opinion of the officer making an inspection under this section, a native passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

(3) If the master of any such ship knowingly receives on board the ship any person in contravention of this section, he shall be liable to a fine which may extend to five hundred rupees for each person so received, or to imprisonment which may extend to three months or to both.

**189.** If a master fails to comply with any of the requirements of section 180 or section 181 as to the statements concerning native passengers, or wilfully makes any false entry or note in or on any such statement or without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such supplementary certificate as is mentioned in section 177 or to report

deaths as required by section 178 or to obtain any such fresh certificate, or to make any such statement of the number of additional native passengers, as is mentioned in section 182, he shall be liable to a fine which may extend to five hundred rupees for every such offence, or to imprisonment for a term which may extend to three months, or to both.

**190.** If a ship carrying native passengers from any port or place beyond British India to any port or place in British India has on board a number of passengers greater either than the number allowed for the ship by or under this Part or than the number allowed by the licence or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every native passenger in excess of that number, be each liable to a fine which may extend to twenty rupees.

**191. (1)** The Governor General in Council may make rules consistent with this Part to regulate, in the case of any native passenger ship or class of such ships, all or any of the following matters. namely :—

- (a) the scale on which food, fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water ;
- (b) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency ;
- (c) the licensing and appointment of medical officers in cases where they are required by this Part to be carried ;
- (d) the boats, anchors and cables to be provided on board ;
- (e) the instruments for purposes of navigation to be supplied ;
- (f) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires ;
- (g) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights extinguishable in water and fitted for attachment to lifebuoys ;
- (h) the functions of the master, medical officer (if any) and other officers of the ship during the voyage ;
- (i) the access of between-decks passengers to the upper deck ; and
- (j) generally, to carry out the purposes of this Part.

**(2)** The Local Government may make rules consistent with this Part to regulate, in the case of any native passenger ship or class of such ships,—

- (a) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Part in that behalf ; and
- (b) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board.

(3) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

**192.** The Governor General in Council may by order prescribe, in the case of any native passenger ship or class of such ships and for all or any voyages the number of superficial or of cubic feet of space to be available for native passengers; and the order shall be alternative to, or override, as the Governor General in Council may direct, the requirements on that subject of this Part so far as they apply to that ship or class of ships.

*Special Provisions regarding Pilgrim Ships.*

**193.** (1) The Governor General in Council may by order determine the number of superficial and cubic feet of space (not being less than the space for the time being required for passengers under this Act) to be available in the between-decks for pilgrims of each class respectively on board pilgrim ships.

(2) Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night so much of the upper deck as is not required for the airing space of the crew or for permanent structures :

Provided that the upper-deck space available for pilgrims shall in no cases be less than six superficial feet for each pilgrim of the age of twelve years or upwards on board.

(3) Subject as aforesaid and to any rules which may be made under this Act, such space may be allotted among the different classes of pilgrims in such proportion as may be thought fit :

Provided that not less space shall be allotted to any one class than will provide six superficial feet of space available for each pilgrim of the age of twelve years or upwards of that class on board.

**194.** The baggage of all pilgrims shall be disposed of on board in such manner as may be prescribed.

**195.** There shall be a regularly appointed hospital on board every pilgrim ship offering such conditions of security, health and space, and capable of accommodating such number, not exceeding five per cent, of the pilgrims embarked, as may be prescribed.

**196.** The master of every pilgrim ship departing or proceeding from any port or place in British India shall sign a statement in duplicate in the prescribed form specifying the total number and the number of each sex of all the pilgrims embarked and the number of the crew, and such other particulars as may be prescribed, and shall deliver both copies to the certifying officer who shall thereupon after having first satisfied himself that the entries are correct, countersign and return to the master one of the copies.

Statement concerning pilgrims to be delivered before ship departs.

**197.** The master of every pilgrim ship shall note in writing on the copy of the statement returned to him under the last foregoing section, and on any additional statement to be made under the next following section, the date and supposed cause of death of any pilgrim who may die on the voyage, and shall, when the pilgrim ship arrives at her port or place of destination, or at any port or place at which it may be intended to land pilgrims, and before any pilgrims disembark, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of His Majesty at the port or place or to the Chief Customs officer there or the certifying officer (if any) appointed there.

Deaths on voyage.

**198.** (1) In either of the following cases, namely :—

Pilgrim ship taking additional pilgrims at intermediate place.

(a) if, after a pilgrim ship has departed or proceeded on her voyage, any additional pilgrims are taken on board at a port or place within British India appointed under this Act for the embarkation of pilgrims, or

(b) if a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any place beyond British India.

the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall furnish an additional statement, in duplicate in the prescribed form, respecting such additional pilgrims.

(2) All the foregoing provisions of this Part with respect to certificate B, and the statement concerning pilgrims to be signed and delivered by the masters of pilgrim ships, shall be applicable to any certificate granted or statement furnished under this section.

**199.** The master of every pilgrim ship arriving at any port or place in British India at which it may be intended to discharge pilgrims shall, before any pilgrims disembark, deliver a statement signed by him, specifying the total number and the number of each sex of all the pilgrims on board and the number of the crew, and such other particulars as may be prescribed, to the certifying officer appointed thereat.

Statement concerning pilgrims to be delivered before pilgrims disembark in British India.



**200.** (1) Every pilgrim ship shall be propelled principally by steam, and shall be of the tonnage and steam-power (if any) prescribed.

Pilgrim ships to be propelled principally by steam and to be of certain tonnage and steam-power.

(2) If this section is not complied with, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both.

**201** (1) Every pilgrim ship carrying more than one hundred pilgrims shall have on board a medical officer licensed as prescribed and, if the number carried exceed one thousand, a second medical officer similarly licensed, and also in all cases such attendants

Certain pilgrim ships to carry medical officers and attendants.

as may be prescribed.

(2) If this section is not complied with, the master shall be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both.

**202.** The medical officer or officers of every pilgrim ship shall keep such diaries, and shall submit such reports or other returns, as may be prescribed.

Medical officers' diaries and reports.

**203.** (1) Every pilgrim ship, proceeding from any port in British India other than Aden to any port in the Red Sea, shall touch at Aden, and shall not leave that port without having obtained from the proper authority a certificate stating whether

Pilgrim ships to touch at Aden on the outward voyage.

any case of cholera has or has not occurred on board since the ship left the port of last departure.

(2) If the master of any such ship, without reasonable excuse the burden of proving which shall lie upon him, fails to touch at Aden or leaves that port without having obtained the certificate required by this section, he shall for every such offence be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

**204.** The authority at Aden empowered to grant the certificate required under section 203 may refuse to permit

When authority at Aden may refuse to let ship leave.

the ship to leave that port if the provisions of this Part or any rule there-under are not complied with on board such ship.

**205.** In the case of every pilgrim ship proceeding from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port-clearance shall not grant the clearance unless or until the master, owner or agent and two sureties resident

Bond where pilgrim ship proceeds on outward voyage.

in British India have executed, in favour of the Secretary of State for India in Council, a joint and several bond, for the sum of five thousand rupees, conditioned—

- (a) that the ship (if the voyage do not commence at Aden) shall touch at Aden on the outward voyage and there obtain the certificate required by section 203, and
- (b) that the master and medical officer or officers (if any) shall comply with the provisions of this Part and the rules thereunder.

**206.** (1) No pilgrim shall be received on board any pilgrim ship at any port or place in British India unless and until he has been medically inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf nor until the certifying officer has given permission for the embarkation of pilgrims to commence.

(2) If, in the opinion of the officer making an inspection under this section any pilgrim is suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, such pilgrim shall not be permitted to embark.

(3) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected of having been so contaminated shall, before being taken on board a pilgrim-ship, be disinfected, under the supervision of a medical officer appointed by the Local Government for the purpose, in which manner as may be prescribed.

(4) If the master of any such ship knowingly receives on board any pilgrim or contaminated article in contravention of this section, he shall be liable to a fine which may extend to five hundred rupees for each pilgrim or fifty rupees for each article so received, or to imprisonment which may extend to three months, or to both.

**207.** (1) If in any case a pilgrim ship does not proceed on her voyage within forty-eight hours after all the pilgrims have been received on board, and there is reason to suspect that any person on board is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, a medical inspection of all persons on board may be held in such manner as the Local Government may direct.

(2) If on such inspection any person is found to be suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, he shall, together with all articles belonging to him, be at once removed from the ship.

(3) If the master of any such ship knowingly keeps on board any pilgrim or article ordered to be removed under this section, he shall be liable to a fine which may extend to five hundred rupees for each pilgrim, or to fifty rupees for each article, so kept on board, or to imprisonment which may extend to three months, or to both.

**208.** So far as may be practicable, and subject to any rules which may be made under this Act, the medical inspection of female pilgrims shall be carried out by women.

**209.** (1) Every pilgrim shall be entitled, on payment of his passage-money and fulfilment of the other prescribed conditions (if any), to receive a ticket in the prescribed form and shall be bound to produce the same to such officers and on such occasions as may be prescribed, and otherwise to deal with the same in the prescribed manner.

(2) Every pilgrim prevented from embarking under section 206 or removed from the ship under section 207, or otherwise prevented from proceeding shall be entitled to the refund of any passage-money he may have paid, subject to any conditions or deductions which may be prescribed.

**210.** The master of every pilgrim ship shall be bound to pay the whole amount of the sanitary taxes imposed by lawful authority at the ports visited if and so far as such taxes are included in the cost of the tickets issued to the pilgrims.

**211.** If the master of a pilgrim ship fails to comply with any of the requirements of section 196, section 197 or section 199 as to the statements concerning pilgrims, or wilfully makes any false entry or note in or on any such statement or fails to obtain any such fresh certificate or to make any such statement of the number of additional pilgrims as is mentioned in section 198, he shall be liable to a fine which may extend to five hundred rupees for every such offence, or to imprisonment for a term which may extend to three months, or to both.

**212.** If the master or the medical officer (if any) of a pilgrim ship, without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Part, he shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

**213.** (1) The Governor General in Council make rules to regulate all or any of the following matters, namely :—

- (a) the boats, anchors and cables to be provided on board pilgrim ships ;
- (b) the instruments for purposes of navigation to be supplied ;
- (c) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent and deal with such fires ;
- (d) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;

- (e) the fittings and other appliances to be provided in the upper and between-decks for the comfort and convenience of pilgrims ;
- (f) the scale on which, and manner in which, food, fuel and water are to be supplied to pilgrims, and the quality of such food, fuel and water ;
- (g) the quality, quantity and storage of the cargo to be carried ;
- (h) the allotment of the upper-deck space between the various classes of pilgrims ;
- (i) the amount and distribution of the baggage of pilgrims ;
- (j) the nature and the extent of the hospital accommodation and the medical stores, disinfectants, and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency ;
- (k) the form of the statements to be furnished by the master under sections 196 and 199, and the particulars to be entered therein ;
- (l) the tonnage and steam-power to be required in the case of pilgrim ships, and the voyages to which, and seasons at which, such rules shall respectively apply ;
- (m) the licensing and appointment of medical officers and other attendants in cases where they are required by this Part to be carried, and the diaries, reports and other returns to be kept or submitted by such medical officers ;
- (n) the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship ;
- (o) the manner in which, and the persons by whom, the medical inspection of women shall be carried out ;
- (p) the supply of tickets to intending pilgrims, the form of such tickets and the conditions and other matters to be specified thereon, and the amount of the sanitary taxes to be included in the cost thereof ;
- (q) the refund of passage-money to intending pilgrims who may not be permitted to embark, or who having embarked may be removed from the ship under the powers conferred by this Part or who may otherwise for any unavoidable cause be prevented from proceeding in any pilgrim ship ;
- (r) the functions of the master, medical officer or officers (if any) and other officers during the voyage ; and
- (s) generally, to carry out the provisions of this Part relating to pilgrim ships.

(2) The Local Government may make rules consistent with this Act to regulate—

- (a) the local limits within which, and the time and mode at and in which, pilgrims shall be embarked or discharged at any port or place appointed under this Part in that behalf ; and
- (b) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board.

(3) In making a rule under this section, the authority making it may direct that a breach of it shall be punishable with fine which may extend

to two hundred rupees, and when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

## PART V.

### SAFETY.

#### *Prevention of Collisions.*

**214.** (1) The Local Government may appoint persons to inspect, in any port, ships to which the regulations for preventing collisions at sea, issued under the provisions of the Merchant shipping Acts, or any other similar law for the time being in force, may apply, for the purpose of seeing that such ships are properly provided with lights and with the means of making fog-signals, in pursuance of such regulations or law.

(2) Every person so appointed shall in the port for which he is appointed have, for the purposes of such inspection, the following powers—

- (a) he may go on board any ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage ;
- (b) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries he thinks fit to make ;
- (c) he may require and enforce the production of all books, papers or documents which he considers important ; and
- (d) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

**215.** If any person so appointed finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.

Notice of deficiency to be given to master or owner by such inspectors.

**216.** Every notice so given shall be communicated in such manner as the Local Government may direct to the Customs-collector at any port from which such ship may seek to clear ; and no Customs-collector to whom such communication is made shall grant such ship a port clearance or allow her to proceed to sea without a certificate under the hand of some person

Ship not to be cleared by Custom-collector till inspector certifies it is properly provided with lights, etc.

appointed as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog-signals in pursuance of the said regulations or law.

*Draught of Water and Load-line.*

**217.** (1) Save as otherwise provided in this Act, every ship, British or foreign, while in any port in British India shall be permanently and conspicuously marked outside with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships, or as near thereto as practicable, and indicating the position of each deck which is above water.

(2) The upper edge of each of these lines shall be level with the upper side of the deck-plank next the waterway at the place of marking.

(3) The lines shall be white or yellow on a dark ground, or black on a light ground.

(4) In this Part the expression "amid-ships" means the middle of the length of the loadwater-line as measured from the fore side of the stem to the aft side of the stern-post.

**218.** (1) Save as otherwise provided in this Act, the master of every ship, British or foreign, while in any port in British India shall, before the time hereinafter mentioned, mark outside upon each of her sides amidships, or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this Part or of the Merchant shipping Acts, as may be approved by the Local Government, and shall indicate the maximum load-line in perfectly smooth salt-water to which it shall be lawful to load the ship.

(3) The position of the disc shall be fixed in accordance with the tables used from time to time by the Board of Trade subject to such allowance as may be necessary in consequence of any difference between the position of the deck-line marked under the provisions of this Part or of the Merchant Shipping Acts, and the position of the line from which free-board is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof, as may from time to time, with the previous approval of the Governor General in Council, be sanctioned by the Local Government.

(4) Any load-line marked under the Merchant Shipping Acts or under any enactment of any British Possession regarding which an Order in Council under section 444 of the Merchant Shipping Act, 1894,\* exists, and any certificate given in pursuance of these Acts or any such enactment in respect of such marking, shall have the same effect as if it had been marked or given in pursuance of this Part.

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\* 57 & 58 Vict., c. 60.

imum load-line under different circumstances and at different seasons, and declaring that the provisions of this Part are to have effect as if any such line were drawn through the centre of the disc ;

(b) as to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship, whether by painting, cutting or otherwise ;

(c) as to the mode of application for, and form of, certificates under this Chapter ; and

(d) as to the entry of such certificates, and any other prescribed particulars concerning the draught of water and free-board of the ship, in the official log (if any) of the ship, or other publication thereof on board the ship, and as to delivering copies of such entries.

(2) Rules under clause (a) of sub-section (1) may, with respect to any class or classes of ships,—

(i) declare what shall be deemed to be seasons of fair weather and seasons of foul weather, respectively, for any of the purposes of the rules, and

(ii) modify the tables referred to in subsection (3) of section 218.

#### *Grain-Cargoes.*

**225.** No cargo of which more than one-third consists of any kind of grain, corn, rice, paddy, pulse, seeds, nuts or nutkernels (hereinafter referred to as grain-cargo) shall be carried on board any British or foreign ship unless the same be contained in bags, sacks or barrels, or secured from shifting by boards or bulkheads or otherwise.

**226.** If the owner or master of any ship, or any agent of such owner who is charged with the loading of such ship or the sending her to sea, knowingly allows any grain-cargo or part of a grain-cargo to be shipped therein for carriage contrary to the provisions of the last foregoing section, he shall be liable to a fine which may extend to three thousand rupees.

#### *Savings.*

**227.** Nothing in the provisions of this Part relating to the over-loading and improper loading of ships or to the marking of deck and load-lines shall apply to—

(i) any sailing-ship of less than one hundred and fifty tons employed in plying coast-wise between ports situated in India and Ceylon ;

(ii) any ship of less than one hundred and fifty tons solely employed in fishing ;

(iii) any pleasure yacht :

(iv) any foreign ship not bound to a port in British India for any purpose other than the purpose of embarking or landing

passengers or taking in or discharging cargo or taking in bunker coal ;

- (v) any foreign ship which, if in a port of the United Kingdom, would be entitled to the benefit of a direction of His Majesty in Council under section 445 of the Merchant Shipping Act, 1894.

**228.** (1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, exclude from, or bring again within the operation of, all or any of the provisions of this Part relating to the overloading and improper loading of ships or to the marking of deck and load-lines subject to such modifications thereof (if any) as may be specified in the notification, any native craft not square-rigged.

(2) The Governor General in Council may, by notification in the Gazette of India, exclude from, or bring again within the operation of, the provisions of this Part relating to the marking of deck and load-lines any steam-ships of less than one hundred and fifty tons which are employed in plying coastwise between ports situated in India and Ceylon and do not carry cargo.

#### *Unseaworthy Ships.*

**229.** (1) Every person who sends or attempts to send a British ship to sea from any port in British India in such an unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

(2) Every master of a British ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was, under the circumstances reasonable and justifiable, be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

(3) For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

(4) No prosecution under this section shall be instituted except by or with the consent of, the Local Government.

**230.** A ship is "unseaworth" within the meaning of this Part when the materials of which she is made, her construction, the qualifications of the master, the number and description of the crew, the weight, description and stowage of the cargo, the tackle, sails, rigging, stores, ballast, and other equipment are not such as to render her in every respect fit for the proposed voyage or service.



**231.** (1) In every contract of service, express or implied, between the owner of a British ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to secure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state for the voyage during the same.

(2) Nothing in this section shall subject such owner to any liability by reason of such ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending her to sea is reasonable and justifiable.

*Detention of unsafe ships by the Local Government.*

**232.** (1) Where a British ship in any port to which the Local Government may specially extend this section is an unsafe ship that is to say, is by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, such ship may be provisionally detained for the purpose of being surveyed and either finally detained or released as follows, namely :—

- (a) The Local Government, if it has reason to believe, on complaint or, otherwise, that any such ship is unsafe, may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed.
- (b) A written statement of the grounds of such detention shall be forthwith served on the master of such ship,
- (c) When the Local Government provisionally orders the detention of a ship, it shall either refer the matter to the Court of Survey for the port where the ship is detained, or forthwith appoint some competent person to survey such ship and report, thereon ; and, on receiving his report, may either order the ship to be released or, if in its opinion the ship is unsafe, may order her to be finally detained, either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, as the Local Government thinks necessary for the protection of human life.
- (d) Before an order for final detention is made a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master may appeal against such report, in the manner prescribed, to the Court of Survey for the port where the ship is detained.

(e) Where a ship has been provisionally detained and a person has been appointed under this section to survey such ship, the owner or master of the ship, at any time before such person makes that survey, may require that he shall take with him as assessor such person as the owner or master may select, being a person named in the list of assessors for the Court of Survey or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list a person of nautical, engineering or other special skill and experience. If the surveyor and assessor agree that the ship should be detained or released, the Local Government shall cause the ship to be detained or released accordingly, and the owner or master shall have no appeal. If the surveyor and assessor differ in their report, the Local Government may act as if the requisition had not been made and the owner or master shall have such appeal touching the report of the surveyor as is herein before provided in this section.

(f) Where a ship has been provisionally detained, the Local Government may, at any time if it thinks it expedient, refer the matter to the Court of Survey for the port where the ship is detained.

(g) The Local Government may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

(2) Any person appointed by the Local Government for the purpose (in this Act referred to as a "detaining-officer") shall have the same power as the Local Government has under this section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person to survey her ; and if he thinks that a ship so detained by him is not unsafe, may order her to be released.

(3) A detaining-officer shall forthwith report to the Local Government any order made by him for the detention or release of a ship.

(4) A ship detained under this section shall not be released by reason of her British or British Indian register being subsequently closed.

(5) A detaining-officer shall have, for the purpose of his duties under this Part, the following powers, namely :—

(a) he may go on board any British ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage ;

(b) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries he thinks fit to make ;

(c) he may require and enforce the production of all books, papers or documents which he considers important ; and

- (d) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

*Costs of detention and damages incidental thereto.*

**233.** If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of a ship, the Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

Liability of Government for costs and damages when ship wrongly detained.

**234.** If a ship is finally detained under this Part, or if it appears that a ship provisionally detained was at the time of such detention unsafe, the owner of the ship shall be liable to pay to Government its costs of and incidental to the detention and survey of the ship: and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

Liability of ship-owner for costs when ship rightly detained.

**235.** For the purposes of this Act, the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or any person appointed to represent the Local Government before the Court, shall be deemed to be part of the costs of the detention and survey of the ship.

What included in costs of detention and survey.

**236.** When a complaint is made to the Local Government or a detaining-officer that a British ship is unsafe, it shall be in the discretion of such Government or officer (as the case may be) to require the complainant to give security to the satisfaction of such Government or officer for the costs and compensation which such complainant may become liable to pay as hereinafter mentioned :

Power to require from complainant security for costs, etc.

Provided that, where the complaint is made by one-fourth, being not less than three, of the seaman belonging to the ship, and is not in the opinion of such Government or officer frivolous or vexatious, such security shall not be required ; and such Government or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this Part.

**237.** Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this Part to pay to the owner of the ship any costs of compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs, or is liable to pay, in respect of the detention and survey of the ship.

Costs, etc., payable by Government recoverable from complainant.

**238.** When a foreign ship is in a port in British India and is, whilst at that port, unsafe by reason of overloading or improper loading, the provisions of this Part with respect to the detention of ships shall apply to that foreign ship as if she were a British ship with the following modifications, namely :—

Application to foreign ships of provisions as to detention.

- (i) a copy of the order for the provisional detention of the ship shall forthwith be served on the consular officer for the country to which the ship belongs at or nearest to the port in which such ship is detained ;
- (ii) the consular officer, at the request of the owner or master of the ship, may require that the person appointed by the Local Government to survey the ship shall be accompanied by such person as the consular officer may select, and in that case, if the surveyor and that person agree, the Local Government shall cause the ship to be detained or released accordingly ; but, if they differ, the Local Government may act as if the requisition had not been made, and the owner and master shall have the like appeal to a Court of Survey touching the report of the surveyor as is hereinbefore provided in the case of a British ship ; and
- (iii) where the owner or master of the ship appeals to the Court of Survey, the consular officer, at his request may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were a British ship, would be appointed otherwise than by the Local Government

**239.** (1) The Local Government may, from time to time, by notification in the local official Gazette, delegate, either absolutely or subject to such conditions or restrictions as it thinks fit, to any body of Commissioners or trustees appointed for managing the affairs of a port, all or any of the powers, and require the said body to discharge all or any of the functions of a Local Government under the foregoing sections of this Part, except the power of making rules.

(2) While any such notification remains in force, all costs and damages which would otherwise be recoverable under this Part by or from the Government shall be recoverable in like manner by or from such body ; and such body shall, notwithstanding anything to the contrary contained in any enactment for the time being in force, credit or pay, as the case may be, the amount of any cost or damages so recovered to or from the funds held by them in trust as such body.

#### *Installation of Wireless Telegraphy.*

**240.** The provisions of this Part in regard to the installation of wireless telegraphy on ships registered in British India shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, direct.

Commencement.

**241.** In the provisions of this Part relating to the installation of wireless telegraphy, "passenger steamer" means a steam-ship which carries more than twelve passengers.

**242.** (1) Every sea-going British ship registered in British India, being a passenger steamer or a ship of sixteen hundred tons gross tonnage or upwards shall be provided with a wireless telegraph installation of the prescribed description, and shall maintain a wireless telegraph service of the prescribed nature and shall be provided with such certificated operators and watchers as may be prescribed :

Provided that the Governor General in Council may, by notification in the Gazette of India, exempt from the obligations imposed by this section, any ships or classes of ships if he is of opinion that, having regard to the nature of the voyages on which the ships are engaged, or other circumstances of the case, the provision of a wireless telegraph installation is unnecessary or unreasonable.

(2) If this section is not complied with in the case of any such ship, the master or owner of the ship shall be liable in respect of each offence to a fine which may extend to one thousand rupees.

**243.** (1) The Governor General in Council may appoint officers (hereinafter referred to in this Act as wireless telegraphy inspectors) for the purpose of seeing that the requirements of this Part relating to wireless telegraphy are complied with on board any ship.

(2) A wireless telegraphy inspector may inspect any ship for the purpose of seeing that she is properly provided with a wireless telegraph installation and certificated operators and watchers in conformity with this Part, and for this purpose may go on board any ship at all reasonable times and do all things necessary for the proper inspection of the ship for the purpose of the provisions of this Part relating to wireless telegraphy and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the installation, and of the certificates of the operators and watchers on the ship.

(3) If a wireless telegraphy inspector finds that a ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(4) Every notice given under sub-section (3) shall be communicated, in the prescribed manner, to the Chief Officer of Customs of any port at which the ship may seek to obtain a port-clearance, who shall order that the ship shall be detained until a certificate under the hand of a wireless telegraphy inspector is produced to the effect that the ship is properly provided with a wireless telegraph installation and certified operators and watchers in conformity with this Part.

**244** The provisions of this Part relating to wireless telegraphy shall as from a date three months after the coming into force of those provisions, apply to ships other than British ships registered in British India while they are within any port in British India in like manner as they apply to British ships registered in British India.

**245.** (1) The Governor General in Council may make rules to carry out the purposes of the provisions of this Part relating to wireless telegraphy.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power such rules may prescribe—

- (a) the nature of the wireless telegraph installation to be provided and of the service to be maintained, and the number, grades and qualifications of certified operators and watchers to be carried :

Provided that no ship shall be required to carry more than one operator unless more than one operator would have been required under the provisions of the Merchant Shipping (Convention) Act, 1914.\*

- (b) the manner in which a notice given under sub-section (3) of section 243 shall be communicated to the Chief Officer of Customs.

## PART VI.

### SPECIAL SHIPPING INQUIRIES AND COURTS.

**246.** (1) For the purpose of inquiries and investigations under this Part a shipping casualty shall be deemed to occur when—

Shipping casualties and report thereof.

- (a) on or near the coasts of British India, any ship is lost, abandoned, stranded or materially damaged ;
- (b) any loss of life ensues by reason of any casualty happening to or on board of, any ship on or near those coasts ;
- (c) on or near those coast, any ship causes loss or material damage to any other ship ;
- (d) in any place any such loss, abandonment, stranding, damage or casualty occurs to, or on board of, any British ship, and any competent witness thereof is found at any place in British India ; or
- (e) any British ship is supposed to have been lost, and any evidence can be obtained in British India as to the

\* 4 and 5 Geo. V. c. 50.

circumstances under which she proceeded to sea or was last head of.

(2) In sub-section (1) the word "coasts" includes the coasts of creeks and tidal rivers.

(3) In the cases mentioned in clauses (a), (b) and (c) of sub-section (1), the master, pilot, harbour-master or other person in charge of the ship, or (where two ships are concerned in charge of each ship, at the time of the shipping casualty, and

in cases under clause (d) of sub-section (1), where the master of the ship concerned or (except in the case of a loss) where the ship concerned proceeds to any place in British India from the place where the shipping casualty has occurred, the master of the ship,

shall on arriving in British India, give immediate notice of the shipping casualty to the nearest Magistrate or, when he arrives at a port in British India, to any officer appointed by the Local Government in this behalf at that port.

(4) Any person bound to give notice under this section and wilfully failing to give the same shall be liable to a fine which may extend to five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.

247. (1) Whenever any Magistrate or any officer appointed by the Local Government in this behalf receives credible information that a shipping casualty has occurred, he shall forthwith report in writing the information to the Local Government.

Report of shipping casualties to the Local Government.

(2) Any such Magistrate or officer —

(i) may go on board any ship, and may inspect the same or any part thereof or any of the machinery, boats, equipments or articles on board thereof, to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage ;

(ii) may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make ;

(iii) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make ;

(iv) may require and enforce the production of all books, papers or documents which he considers important for such purpose ; and

(v) may administer oaths, or may, in lieu of requiring or administering an oath, require any persons examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

248. (1) If the Local Government to which the respect prescribed by the last foregoing section has been made or within whose territories any competent witnesses of any shipping casualty have arrived or are to be found, or any evidence thereof can be obtained, is of opinion that a

Power for Local Government to appoint special Court of Investigation.

formal investigation into the shipping casualty is requisite or expedient, the Local Government may appoint a special Court consisting of not less than two nor more than four persons, and direct that Court to make the investigation, and may fix the place for making the same.

(2) One of the members of the Court shall be a Magistrate acting in or near the place where the investigation is made; another shall be some person conversant with maritime affairs; and the other or others (if any) shall be conversant with either maritime or mercantile affairs.

**249.** Every Colonial Court of Admiralty in British India, and the principal Court of ordinary criminal jurisdiction at every port of British India where there is no such Court is hereby authorized when so directed by the Local Government or by such officer as the Local Government has empowered in this behalf, to make a formal investigation into a shipping casualty.

**250.** (1) Any Court making a formal investigation into a shipping casualty may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master mate or engineer, as well as into any charge of a wrongful act or default on his part causing the shipping casualty.

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer in the course of an investigation, the Court shall, before the commencement of the inquiry, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

**251** (1) If the Local Government has reason to believe that there are grounds for charging any master mate or engineer, with incompetency or misconduct, otherwise than in the course of a formal investigation into a shipping casualty, the Local Government—

(a) if the master, mate or engineer holds a certificate under this Act, in any case,

(b) if the master mate or engineer holds a certificate under the Merchant Shipping Act, in the following cases :—

(i) where the incompetency or misconduct has occurred on a British ship on or near the coasts of British India, or on board a British ship in the course of a voyage to a port within the colony;

(ii) where the incompetency or misconduct has occurred on board a British ship registered in British India;

(iii) where the master, mate or engineer of a British ship, who is charged with incompetency or misconduct on board that British ship is found in British India;

may transmit a statement of the case to any Court mentioned in section 249 at or nearest to the place at which it may be convenient for the parties



and witnesses to attend, and may direct that Court to make an investigation into that charge.

(2) Before commencing the investigation, the Court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Local Government.

**252.** For the purpose of an investigation under this Part into any charge against a master, mate or engineer, the Court may summon him to appear and shall give him full opportunity of making a defence either in person or otherwise.

**253.** For the purpose of any investigation under this Part, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

(a) if the Court is a special Court—the same powers as are exercisable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made ;

(b) if the Court is a Court having admiralty jurisdiction or a principal Court of ordinary criminal jurisdiction—the same powers as are exercisable by that Court in the exercise of its admiralty or criminal jurisdiction (as the case may be).

**254.** (1) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, mate or engineer, the Court making the investigation shall constitute as its assessors for the purpose of the investigation two persons having experience in the merchant service ; and in every investigation the Court making it may, if it thinks fit, constitute as its assessor for the purposes of the investigation any person conversant with maritime affairs and willing to act as its assessor.

(2) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings, but the exercise of all powers conferred on the Court by this Part or any other enactment for the time being in force shall rest with the Court.

**255.** (1) If any Court making an investigation under this Part thinks it necessary for obtaining evidence that any person should be arrested it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest authorise any officer (subject, nevertheless, to any general or special instructions from the Local government) to enter any vessel.

(2) Any officer so authorised may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest.

(3) No person shall be detained by virtue of this section for more than forty-eight hours.

**256.** (1) Whenever, in the course of any such investigation, it appears that any person has committed within the trial and bind over witnesses. jurisdiction of any Court in British India an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may from time to time prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court, and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Pre-idency Magistrate.

• **257.** (1) The Court shall, in the case of all investigations under this Part, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

Report by Court to Local Government.

(2) In cases in which, under the Merchant Shipping Acts, the Court is required to send a report to the Board of Trade, the report shall be sent through the Local Government, and the transmission of the report to the Local Government shall be a sufficient compliance with this section.

*Suspension and Cancellation of Certificates and  
Grant of fresh Certificates.*

**258.** Nothing in this Part shall affect the powers conferred by the Merchant Shipping Acts,\* on the Courts conducting investigations under this Part, to cancel or suspend certificates granted under any of the said Acts, or the<sup>a</sup> power to remove the master of a ship conferred by section 472 of the Merchant Shipping Act, 1894.\*

Saving of power to cancel and suspend certificates and remove master under English Acts.

**259.** (1) When any such Court cancels or suspends any such certificate the Local Government may if it thinks fit, and if it is so empowered by any enactment of a British Indian Legislature for the time being in force, grant under that enactment, but without examination, to the holder of the certificate, when the certificate is a certificate as master, a certificate as mate, and, when the certificate is a certificate as mate or engineer, a certificate as a mate or engineer, as the case may be, of a grade lower than that which he held at the time of the cancellation or suspension.

Power to issue local certificates in lieu of cancelled or suspended certificates.

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping Acts.

(3) The Local Government may act under this section either in pursuance of a recommendation from the Court or of its own motion.

**260.** (1) Any certificate which has been granted by any Local Government to any master, mate or engineer, may be suspended or cancelled, by that or any other Local Government, in the following cases, that is to say :—

Power for Local Government to suspend or cancel certificates in certain cases.

\* 57 & 58 Vict., c. 60.

- (a) if, on any investigation made under the Merchant Shipping Acts, or on any investigation made by any Court or tribunal for the time being authorised by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates or engineers of ships, or as to shipwrecks or other casualties affecting ships, the Court or tribunal reports that the master, mate or engineer is incompetent or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default ;
- (b) if he is proved to have been convicted of any offence which, if committed in British India, would be non-bailable, or, if committed in England, would be a felony ; and
- (c) if (in case of a master) he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1894,\* or by any other law for the time being in force.

(2) Notwithstanding anything contained in this Act the Local Government may, at any time, without any formal investigation, suspend or cancel any engine driver's certificate granted by it if, in its opinion, the holder is, or has become, unfit to act as an engine driver.

**261.** If the Local Government which cancels or suspends a certificate of a master, mate or engineer is not the Local Government by or under the authority of which the same was granted, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to that Local Government.

**262.** Every Local Government cancelling or suspending under section 260 the certificate of a master, mate or engineer shall, as soon as may be practicable, report to the Board of Trade the fact of such cancellation or suspension.

**263.** (1) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section 260, or grant, without examination to any person whose certificate it has so cancelled, a new certificate of the same or of any lower grade.

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping Acts.

**264.** (1) A certificate of a master, mate or engineer which has been granted by a Local Government under this Act may be cancelled or suspended.

Power of Court of Investigation or Inquiry as to certificates granted by a Local Government.

\* 57 & 58 Vict., c. 60.

(a) by a Court holding a formal investigation into a shipping casualty under this Part if the Court finds that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by the wrongful act or default of such master, mate or engineer ;

(b) by a Court holding an investigation under this Part into the conduct of the master, mate or engineer if the Court finds that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct.

(2) At the conclusion of the investigation or as soon afterwards as possible, the Court shall state in open sitting the decision to which it may have come with respect to the cancelment or suspension of any certificate.

(3) Where the Court cancels or suspends a certificate, the Court shall forward it to the Local Government, together with the report which it is required by this Part to transmit to that Government.

(4) A certificate shall not be cancelled or suspended by a Court under this section unless a copy of the report or a statement of the case on which the investigation or inquiry has been ordered has been furnished before the commencement of the investigation or inquiry to the holder of the certificate.

(5) The duties imposed and powers conferred by sections 261, 262 and 263 on the Local Government which cancels or suspends a certificate shall, when a Court has under this section cancelled or suspended a certificate, be performed and exercised by the Local Government to which the Court has forwarded the certificate under sub-section (3), as if such Local Government had itself cancelled or suspended the certificate under section 260.

**265.** (1) The principal Court of ordinary criminal jurisdiction at any port in British India, where there is no Colonial Court of Admiralty, may remove the master of any ship within the jurisdiction of that Court if that removal is shown to the satisfaction of the Court by evidence on oath to be necessary.

(2) The removal may be made upon the application of the owner of any ship or his agent, or of the consignee of the ship, or of any certificated mate, or of one-third or more of the crew of the ship.

(3) The Court may appoint a new master instead of the one removed but where the owner, agent or consignee of the ship is within the jurisdiction of the Court, such an appointment shall not be made without the consent of that owner agent or consignee.

(4) The Court may also make such order and require such security in respect of the costs of the matter as the Court thinks fit,

**266.** A master mate or engineer whose certificate is cancelled or suspended by any Court or by the Local Government shall deliver his certificate—

(a) if cancelled or suspended by a Court, to that Court ;

(b) if cancelled or suspended by a Local Government, to that Local Government, or to a shipping-master or other person appointed in this behalf by that Local Government.

(2) If a master, mate or engineer fails to comply with this section, he shall for each offence be liable to a fine which may extend to five hundred rupees.

### *Investigations into Explosions.*

**267.** (1) Whenever any explosion occurs on board any steam-ship on or near the coasts of British India, the Local Government may, if it thinks fit direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

(2) The person or persons so directed may enter into and on the steam ship, with all necessary workmen and labourers, and remove any portion of the steam-ship, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what, in his or their opinion, was the cause of the explosion.

### *Courts of Survey.*

**268.** (1) A Court of Survey for a port shall consist of a Judge sitting with two assessors.

(2) The Judge shall be a District Judge, Judge of a Court of Small Causes Presidency Magistrate, Magistrate of the first class or other fit person appointed in this behalf by the Local Government either generally or for any specified case.

(3) The assessors shall be persons of nautical engineering or other special skill or experience.

(4) Subject to the provisions of Part V as regards foreign ships, one of the assessors shall be appointed by the Local Government either generally or in each case, and the other shall be summoned by the Judge in the manner prescribed, out of a list of persons from time to time prepared for the purpose and published by the Local Government in the local official Gazette or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the Judge.

**269.** (1) The Judge shall on receiving notice of an appeal or a reference from the Local Government, immediately summon the assessors to meet forthwith in the prescribed manner.

(2) The Court of Survey shall hear every case in open Court.

(3) The Judge and each assessor shall for the purposes of this Act, have the same powers of inspection, and of enforcing the attendance of witnesses and the production of evidence, as are by this Act conferred on a detaining-officer.

(4) The Judge may appoint any competent person to survey the ship and report thereon to the Court.

(5) The Judge shall have the same power as the Local Government has to order the ship to be released or finally detained ; but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

(6) The owner and master of the ship and any person appointed by the owner or master and also any person appointed by the Local Government, may attend at any inspection or survey made in pursuance of this section.

(7) The Judge shall report the proceedings of the Court in each case to the Local Government in the manner prescribed, and each assessor shall either sign such report or report to the Local Government the reasons for his dissent.

**270.** The Local Government may make rules to carry into effect the provisions of this Act with respect to a Court of Survey, and, in particular and without prejudice to the generality of the foregoing power, with respect to—

Power of Local Government to make rules with respect to Court of Survey.

(a) the produce before the Court ;

(b) the requiring, on an appeal, of security for costs and damages ;

(c) the amount and application of fees ; and

(d) the ascertainment, in case of dispute, of the proper amount of costs.

### *Scientific Referees.*

**271.** (1) If the Local Government is of opinion that an appeal to a Court of Survey involves a question of construction or design or of scientific difficulty, or important principle, it may refer the matter to such one or more out of a list of scientific referees to be from time to time prepared by the Local Government, as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the Port-officer and the appellant, or, in default of any such agreement, by the Local Government ; and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

Reference in difficult cases to scientific persons.

(2) The Local Government, if the appellant in any such appeal so requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

(3) The referee or referees shall have the same powers as a Judge of the Court of Survey.

## PART VII.

## WRECK AND SALVAGE

**272.** In this Part "wreck" includes the following when found in the sea or any tidal water or on the shores thereof :—  
 "Wreck" defined.

- (a) goods which have been cast into the sea and then sink and remain under water ;
- (b) goods which have been cast or fall into the sea remain floating on the surface ;
- (c) goods which are sunk in the sea, but are attached to a floating object in order that they may be found again ;
- (d) goods which are thrown away or abandoned ; and
- (e) a ship abandoned without hope or intention of recovery.

**273.** (1) The Local Government may, by notification in the local official Gazette, appoint such person as it thinks fit to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as it may prescribe.

(2) Persons so appointed shall be called receivers of wreck.

**274.** (1) Any person finding and taking possession of any wreck within any local limits for which a receiver of wreck has been so appointed, or bringing within such limits any wreck which has been found and taken possession of elsewhere, shall, as soon as practicable,—

- (a) if he be the owner thereof, give the receiver of wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished ;
- (b) if he be not the owner of such wreck, deliver the same to the receiver of wreck.

(2) Any person omitting to give notice of the finding of, or to deliver, any wreck to the receiver of wreck as required by sub-section (1) shall be liable to a fine which may extend to one thousand rupees, and, in the case of omission to deliver any wreck, shall, in addition to such fine, forfeit all claim to salvage, and pay to the owner of such wreck if the same is claimed, or if the same is unclaimed to the Government, a penalty not exceeding twice the value of such wreck.

**275** (1) Whenever any wreck is found by the receiver of wreck or Government or person has been delivered to him in accordance with the finding wreck entitled to provisions of this Part by any person, not being salvage. the owner thereof, the Government or such other person so delivering such wreck as the case may be, shall be entitled to receive a reasonable sum for salvage, having regard to all the circumstances of the case.

(2) Any dispute arising concerning the amount due under this section shall be determined by a Magistrate upon application to him for that purpose by either of the disputing parties.

**276.** The receiver of wreck shall, on taking possession of any wreck  
 Notice to be given by receiver. publish a notification, in such manner and at such place as the Local Government may prescribe in this behalf, containing a description of the same and the time at which and the place where the same was found.

**277.** If after the publication of such notification the wreck is un-  
 Wreck may in certain cases be sold. claimed, or if the person claiming the same fails to pay the amount due for salvage and for charges incurred by the receiver of wreck in respect thereof, the receiver of wreck may sell such wreck by public auction, if of a perishable nature, forthwith, and, if not of a perishable nature, at any period not less than six months after such notification as aforesaid.

**278.** On the realization of the proceeds of such sale, the amount due  
 Proceeds how applied. for salvage and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the balance shall be paid to the owner of the wreck, or if no such person appear and claim the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same :

Provided that he makes his claim within one year from the date of the sale.

**279.** Nothing in this Part shall be deemed  
 Savings. to—

- (a) affect the declaration of the twenty-third day of October, 1889, in Schedule IV, between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of wrecks on their respective coasts, that declaration having been made applicable to India, or
- (b) affect section 29 of the Indian Ports Act, 1908, or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

## PART VIII.

### LEGAL PROCEEDINGS.

**280.** The following persons shall be deemed to be public servants  
 Certain persons to be deemed Public Servants. within the meaning of the Indian Penal Code, namely :—

- (a) Every surveyor appointed under this Act.
- (b) Every judge, assessor or other person acting under Part VI.
- (c) Every person appointed under this Act to report information as to shipping casualties.
- (d) Every person authorised under this Act to make any investigation under Part VI, and all persons whom he calls to his aid.



(e) Every person directed to make an investigation into an explosion on a steam-ship under section 267.

(f) Every Wireless Telegraphy Inspector appointed under this Act.

**281.** No Magistrate shall try any offence against this Act or any rule made thereunder unless he is a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the first class.

Jurisdiction of Magistrates.

**282.** Any person committing any offence against this Act or any rule thereunder, may be tried for the offence in any place in which he may be found or which the Local Government may, by notification in the local official Gazette, direct in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

Place of trial of the offender.

**283** (1) Whenever in the course of any legal proceeding under this Act instituted at any place in British India before any Court or Magistrate, or before any person authorized by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter, and the defendant or the person accused (as the case may be) after being allowed a reasonable opportunity for so doing, does not produce the witness before the Court, Magistrate or person so authorised, any deposition previously made by the witness in relation to the same subject-matter before any Court, Justice or Magistrate in His Majesty's dominions (including all parts of British India other than those subject to the same Local Government as the place where the proceeding is instituted), or before any British consular officer, if elsewhere, shall be admissible in evidence—

Depositions to be received in evidence when witnesses cannot be produced.

(a) if the deposition is authenticated by the signature of the presiding officer of the Court or of the Justice, Magistrate or consular officer before whom it is made;

(b) if the defendant or the person accused had an opportunity by himself or his agent of cross-examining the witness;

(c) if the proceeding is criminal, on proof that the deposition was made in the presence of the person accused.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness, and that the deposition, if made in a criminal proceeding, was made in the presence of the person accused, shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

**284.** (1) Where under this Act a ship is authorised or ordered to be detained, any commissioned officer on full pay in the Naval or Military service of His Majesty, any commander or first officer in the Royal Indian Marine Service, or any port officer, harbour master, conservator of a port, or officer of Customs may detain the ship.

Enforcing detention of ship.

(2) If any ship after detention, or after service on the master of any notice of, or order for, such detention, proceeds to sea before she is

released by competent authority, the master of the ship shall be liable to a fine which may extend to one thousand rupees.

(3) When a ship so proceeding to sea takes to sea when on board thereof in the execution of his duty, any person authorised under this Act to detain or survey such ship, the owner and master of such ship shall each be liable to pay all expenses of, and incidental to, such persons being so taken to sea and shall also each be liable to a fine which may extend to one thousand rupees.

(4) When any owner or master is convicted of an offence under sub-section (3), the convicting Magistrate may inquire into and determine the amount payable on account of expenses by such owner or master under that sub-section, and may direct that the same shall be recovered from him in the manner provided for the recovery of fines.

**285.** When an order under this Act for the payment of any wages Levy of wages, etc. by or other money is made by a shipping-distress of moveable pro- master or a Magistrate and the money is not paid perty. at the time or in the manner directed, the sum mentioned in the order with such further sum as may be thereby awarded for costs, may be levied by distress and sale of the moveable property of the person directed to pay the same under a warrant to be issued for that purpose by a Magistrate.

**286** Where any Court Magistrate has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then if the person so directed to pay the same is the master or owner of a ship, and the same is not paid at the time or in the manner directed by the order, the Court or Magistrate may, in addition to any other power it or he may have for the purpose of compelling payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

**287.** Where for the purpose of this Act any document is to be served on any person, that document may be served—  
Service of documents.

- (a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode ; and
- (b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship, with the person being or appearing to be in command or charge of the ship ; and
- (c) if the document is to be served on the master of a ship, where there is no master and the ship is in British India, on the managing owner of the ship, if there is no managing owner, on some agent of the owner residing in British India, or, where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

**288.** A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed or in or towards payment of the expenses of the prosecution.

## PART IX.

### SUPPLEMENTAL.

**289.** (1) Where shipping master has reasons to suspect that the provisions of this Act are not complied with, that officer may—  
Power to see Act is complied with.

- (a) enter on board any British ship, and
- (b) master and examine the crew.

(2) If any person obstructs any shipping master in the execution of his duty under this section, he shall be liable to a fine which may extend to one hundred rupees.

### *Ship Surveyors.*

**290** The Local Government may appoint competent persons for the purpose of examining the qualifications of persons desirous of practising the profession of a ship surveyor at any port in the territories administered by such Government, and, subject to the control of the Governor General in Council, make rules—  
Power to appoint examiners and to make rules as to qualifications of ship surveyors.

- (a) for the conduct of such examinations and the qualifications to be required,
- (b) for the grant of certificates to qualified persons,
- (c) for the fees to be paid for such examinations and certificates,
- (d) for holding inquiries into charges of incompetency and misconduct on the part of holders of such certificates, and
- (e) for the suspension and cancellation of such certificates.

**291.** No person shall, in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section 290, exercise such profession in such port unless he holds a certificate granted under that section :  
No person to practise as ship surveyor unless qualified.

Provided that nothing herein contained shall prevent any person employed by Lloyd's Register of British and Foreign shipping or Bureau Veritas from discharging any of the duties of such employment or apply to any person specially exempted by the Local Government from the operation of this section.

**292.** Any person exercising the profession of a ship surveyor in contravention of the provisions of the section 291 shall be liable to a fine not exceeding one thousand rupees, and shall be incapable of maintaining any suit for any fee or reward for anything done by him.

**293.** Any person appointed or authorised under this Act to survey a ship may, in the execution of his duties, go on board the ship and inspect the same and every part thereof, and the machinery, equipments and cargo, and may require the unloading or removal of any cargo, ballast or tackle.

**294.** All rules made under this Act shall be published in the Gazette of India or the local official Gazette, as the case may be, and no such publication shall have effect as if enacted in this Act.

**295.** No suit or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

**296. (1)** The enactments mentioned in Schedule V are hereby repealed to the extent specified in the fourth column thereof.

(2) Any body constituted, and any office established under any enactment hereby repealed shall continue and be deemed to have been constituted or established, as the case may be under this Act.

(3) The mention of particular matters in this section shall not be held to prejudice or affect the general application of the provisions of the General Clauses Act, 1897\* with regard to the effect of repeals.

## SCHEDULE I.

(See section 9.)

### TABLE A.

FEES TO BE CHARGED FOR MATTERS TRANSACTED AT SHIPING OFFICES-

#### 1. Engagement or discharge of crews :—

		Rs.	A.	P.
In ships under 100 tons	...	3	0	0
From 100 to 200 "	...	7	0	0
200 to 300 "	...	10	0	0
300 to 400 "	...	12	8	0
400 to 500 "	...	15	0	0
500 to 600 "	...	17	8	0
600 to 700 "	...	20	0	0
700 to 800 "	...	22	8	0
From 800 to 900 "	...	25	0	0
900 to 1000 "	...	27	8	0
above 1,000	...	30	0	0

\* X of 1897.

and so on for ships of larger tonnage, adding for every one hundred tons above one thousand, two rupees and eight annas.

2. Engagement or discharge of seamen separately—one rupee for each seaman.

### TABLE B.

#### SUMS TO BE DEDUCTED FROM WAGES BY WAY OF PARTIAL REPAYMENT OF FEES IN TABLE A

	RS.	A.	P.
1. In respect of engagements and discharges of crews, upon each engagement and each discharge—			
From wages of any mate, purser, engineer, surgeon, carpenter or steward ...	0	12	0
From wages of all others except apprentices.	0	8	0
2. In respect of engagements and discharges of seamen, separately, upon each engagement and each discharge ...	0	8	0

### SCHEDULE II.

(See section 131.)

*Rates of Fees payable in respect of Survey of Steam-ships.*

	Tons.	Rs.
For steam-ships of less than	200	40
“ “ 200 tons and up to	350	50
“ “ 350 “ “	700	60
“ “ 700 “ “	1,000	80
“ “ 1,000 “ “	1,500	100
“ “ 1,500 and upward		120

### SCHEDULE III.

(See section 146.)

#### PART I.

(Applied sections of the Merchant Shipping Act, 1894.)

332. If any passenger, whether a cabin or a steerage passenger, is either taken off any ship which is carrying any

Expenses of rescue and conveyance of wrecked passengers.

steerage passenger on a voyage from any part of His Majesty's dominions and is damaged, wrecked, sunk or otherwise destroyed, or if any

such passenger is picked up at sea from any boat, raft, or otherwise, it shall be lawful—

(a) if the port to which such passenger (in this Act referred to as "wrecked passenger") is conveyed is in the United Kingdom, for a Secretary of State ; and

(b) if the port is in a British possession, for the Governor of that possession, or any person authorised by him for the purpose ; and

(c) if the port is elsewhere, for the British Consular Officer there ;  
to defray all or any part of the expenses thereby incurred.

**333.** (1) If any passenger, whether a cabin or a steerage passenger from any ship which is carrying any steerage passengers on a voyage from any port in His Majesty's dominions, finds himself, without any neglect or default of his own, at any port outside the British Islands other than the port for which the ship was originally bound, or at which he, or the Board of Trade, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful—

Forwarding of passengers  
by Governors or Consuls.

(a) if the place is in a British possession, for the Governor of that possession, or any person authorised by the Governor for the purpose ; and

(b) if the place is elsewhere, for the British Consular Officer there ;  
to forward the passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of the passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or convey within six weeks thereafter the passenger to his original destination, and forwards or conveys him accordingly within that period

(2) A passenger so forwarded by, or by the authority of, a Governor or a British Consular Officer shall not be entitled under this Part of this Act to the return of his passage money, or to any compensation for loss of passage.

**334.** (1) All expenses incurred under this part of this Act by, or by the authority of, a Secretary of State, Governor of a British possession, or Consular Officer, in respect of a wrecked passenger, or forwarding of a passenger to his destination, including the cost of maintaining the passenger, until forwarded to his destination, and of all necessary bedding, provisions, and stores, shall be a joint and several debt to the Crown from the owner, charterer, and master of the ship on board of which the passenger had embarked.

(2) In any proceeding for the recovery of that debt, a certificate purporting to be under the hand of a Secretary of State, Governor, or Consular Officer, and stating the circumstances of the case, and the total amount of the expenses, shall be admissible in evidence in manner provided by this Act, and shall be sufficient evidence of the amount of the expenses, and of the fact that the same were duly incurred, unless the defendant specially pleads and duly proves that the certificate is false and fraudulent, or that the expenses were not duly incurred under this Act.

(3) The sum recovered on account of the expenses shall not exceed twice the total amount of passage money which the owner, charterer, or master of the emigrant ship proves to have been received by him or on his account, or to be due to and recoverable by him or on his account in respect of the whole number of passengers, whether cabin or steerage who embarked in the ship.

335. A policy of assurance effected in respect of any steerage passage or compensation money by any person by this Part of this Act made liable, in the events aforesaid, to provide such passage or to pay such money, or in respect of any other risk under this Part of this Act, shall not be invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance."

## PART II.

### FORM OF GOVERNOR'S OR CONSUL'S CERTIFICATE OF EXPENDITURE IN THE CASE OF PASSENGERS SHIPWRECKED, &c.

*(See applied section 334 above.)*

I hereby certify that, acting under, and in conformity with, the provisions of Part III of the Indian Merchant Shipping Act, 192 , I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores (a), and in forwarding to their destination passengers [including cabin-passengers (b)], who were proceeding from to in the passenger-ship which was wrecked at sea, &c. (c)

And I further certify, for the purposes of Part of the said Act, that the total amount of such expenses is , and that such expenses were duly incurred by me under the said Act. Given under my hand this day of , 19 .

*Governor of, &c. (or, as the case may be) His Britannic  
Majesty's Consul at .*

(a) *N.B.*—1. If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, alter the certificate to suit the facts of the case.

(b) *N.B.*—2. Omit words in brackets when necessary.

(c) *N.B.*—3. State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly.

## SCHEDULE IV.

(See section 279.)

*Declaration between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic with reference to the disposal of the proceeds of Wrecks on their respective Coasts.*

The Government of Her Majesty the Queen of the United Kingdom of Britain and Ireland, Empress of India, and the Government of the French Republic, desiring to regulate by a new Agreement questions relative to the disposal of the proceeds of wrecks on the coasts of the two States, have agreed to replace the Declaration signed at London on the 16th June 1879, by the following arrangements :—

### ARTICLE I.

When any ship belonging to the subjects of one of the two Contracting States is wrecked or stranded on the coast of the other, the competent local authorities shall, with as little delay as possible, bring the fact to the knowledge of the Consul General, Consul, Vice-Consul or Consular Agent nearest to the spot where the wreck or stranding has taken place.

### ARTICLE II.

All operations relative to the salvage of British ships which may be wrecked or stranded on the coasts of France shall be directed by the Consuls General, Consuls, Vice-Consuls or Consular Agents of Great Britain, and reciprocally the French Consuls General, Consuls, Vice-Consuls and Consular Agents shall direct all operations relative to the salvage of ships of their nation wrecked or stranded on the coasts of Great Britain.

### ARTICLE III.

If the owners of the ship and cargo, or their duly authorised representatives, shall be present and shall claim it, the Consuls General, Consuls, Vice-Consuls and Consular Agents shall hand over to them the conduct of the salvage operations after requiring the deposit of the ship's papers, as well as the reimbursement of the expenses already defrayed, and a sufficient guarantee for those incurred before the operations were handed over, and which may not have been already settled.

### ARTICLE IV.

The intervention of the local authorities shall only take place in the two countries for the purpose of assisting the Consular authority, of maintaining order, of securing the interests of the salvors if they are strangers to the ship-wrecked crews, and of assuring the due execution of the arrangements to be carried out for the entry and departure of the merchandise saved.

In the absence, and until the arrival, of the Consuls General, Consuls, Vice-Consuls or Consular Agents, the local authorities shall, moreover,



take all necessary measures for the protection of the persons and for the preservation of the articles which shall have been saved from the wreck.

This intervention shall not give rise to any charges, with the exception of those which the salvage operations and protection of the articles saved shall have rendered necessary, and those to which national ships would, under similar circumstances, be liable. These charges shall be paid according to the circumstances of the case, either by the Agents of the Consular service, or by their owners or their proxies.

In case absence, sickness or any other cause should prevent the Agents of the Consular service from seeing to the operations and the management of the salvage, the local authorities who may be charged with the operations and management in question shall be bound to remit to the aforesaid Agents the ship's papers and the net proceeds of the ship and the cargo.

#### ARTICLE V.

The merchandise and articles saved shall not be liable to any customs-duties, unless they are intended for home consumption, in which case they shall pay the same duties as they would have had to pay if they had been imported in national vessels.

#### ARTICLE VI.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of Her Britannic Majesty, excepting to those hereinafter named, that is to say, except to—

India.	Victoria.
The Dominion of Canada.	Queensland.
Newfoundland.	Tasmania.
The Cape.	South Australia.
Natal.	Western Australia.
New South Wales.	New Zealand :

Provided always that the stipulations of the present Declaration shall be made applicable to any of the above-named Colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's Representative to the French Republic within one year from the date of the signature of the present Declaration.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of France.

#### ARTICLE VII-

The present Declaration shall come into operation three months after the date of its signature, and shall remain in force until the expiration of one year from the day on which either Party may give notice of its intention to terminate it.

In witness whereof, the undersigned Plenipotentiaries, His Excellency the Earl of Lytton, Ambassador of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland Empress of India, and His Excellency M, Eugene Spuller, Minister for Foreign Affairs, have signed the present Declaration, and have affixed thereto their seals.

Done at Paris, this twenty-third day of October, 1889.

## SCHEDULE V.

(See section 269.)

## ENACTMENT REPEALED.

1	2	3	4
Year.	Number.	Subject or title.	Extent of repeal.
1850	XIX	The Apprentices Act, 1850.	Sections 5 and 7 so far as they have not been repealed. In section 10 the words "or, if the apprentice is bound to the sea service, in the office of the person appointed under Act X, 1841, to make registry of ships at the port where the apprentice is to begin his service" and the words "or registering officer." In sections 11, 12, and 20 the words "or registering officer".
1859	I	The Indian Merchant Shipping Act, 1859.	The whole so far as it has not been repealed.
1874	XV	The Laws Local Extent Act, 1874.	So much of the First Schedule as relates to Act 1 of 1859.
1876	XIII	The Indian Merchant Seamen's Act, 1876.	The whole.
1880	VII	The Indian Merchant Shipping Act, 1880.	The whole so far as it has not been repealed.
1883	V	The Indian Merchant Shipping Act, 1883.	The whole except section 38.
1884	VII	The Indian Steamships Act, 1884.	The whole so far as it has not been repealed.
1887	X	The Native Passenger Ships Act, 1887.	The whole.
1890	III	The Indian Steamships Law Amendment Act, 1890.	The whole so far as it has not been repealed.
1891	VI	The Indian Merchant Shipping Law Amendment Act, 1891.	The whole so far as it has not been repealed.

1	2	3	4
Year.	Number.	Subject or title.	Extent of repeal.
1891	XII	The Amending Act, 1891.	So much of the Second Schedule as relates to the Indian Merchant Seamen's Act, 1876, the Indian Merchant Shipping Act, 1880, the Indian Merchant Shipping Act, 1883, and the Indian Steam-ships Law Amendment Act, 1890.
1891	XVII	The Deck and Load Lines Act, 1891.	The whole.
1895	XIV	The Pilgrim Ships Act, 1895.	The whole
1897	XIV	The Indian Short Titles Act, 1897.	So much of the Schedule as relates to the Indian Merchant Shipping Act, 1859, the Indian Steam-ships Law Amendment Act, 1890, and the Indian Merchant Shipping Law Amendment Act, 1891.
1900	VI	The Lower Burma Courts Act, 1900.	So much of the Second Schedule as relates to the Indian Merchant Shipping Act, 1883.
1902	III	The Indian Steam-ships (Amending and Validation) Act, 1902.	Section 3.
1906	VI	The Indian Merchant Shipping (Amendment) Act, 1906.	The whole.
1908	XVIII	The Indian Merchant Shipping (Amendment) Act, 1908.	The whole.
1909	I	The Indian Steam-ships Law Amendment Act, 1909.	The whole so far as it has not been repealed.
1914	IV	The Decentralisation Act, 1914.	So much of the Schedule, Part I, as relates to the Pilgrim Ships Act, 1895.

1	2	3	4
Year.	Number.	Subject or title.	Extent of repeal.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Merchant Shipping Act, 1859, the Indian Merchant Seamen's Act, 1876, the Indian Steam-ships Act, 1884, and the Deck and Load Lines Act, 1891.
1917	I	The Inland Steam-Vessels Act, 1917.	So much of Schedule II as relates to the Inland Steam-ships Law Amendment Act, 1890, and the Indian Steam-ships Law Amendment Act, 1909.
1919	XXV	The Indian Merchant Shipping Law (Amendment) Act, 1919.	The whole.
1920	I	The Indian Steam-ships (Amendment) Act, 1920.	The whole.
1920	XXXVIII	The Devolution Act, 1920.	So much of the First Schedule as relates to the Indian Merchant Shipping Act, 1880, the Indian Steam-ships Act, 1884, and the Native Passenger Ships Act, 1887.
1920	XLI	The Indian Wireless Telegraphy (Shipping) Act, 1920.	The whole.

## **ACT No. XXII OF 1923.**

**PASSED BY THE INDIAN LEGISLATURE.**

*Received the assent of the Governor General on the 2nd April, 1923.*

**An Act to declare the law in force in certain territories of the district of Sambalpur and to provide that the past administration of those territories shall not be called in question on the ground that they were not included in the territories administered by the Government of the Central provinces.**

**WHEREAS** by Proclamation published under Notification No. 2833, dated the first day of September 1905, the Governor General in Council was pleased to declare and appoint that, with effect from the sixteenth day of October 1905, the district of Sambalpur (except the Chandarpur-Padampur Zamindari and the Pnuljhar Zamindari) which then formed part of the Central Provinces, should cease to form part of those Provinces and should be included within the limits of the Bengal Division of the Presidency of Fort William ; and

**WHEREAS** by Proclamation published under Notification No. 289, dated the twenty-second day of March, 1912, the Governor General in Council, with the sanction of His Majesty, was pleased to constitute certain territories, including the said district of Sambalpur, a province under the name of the province of Bihar and Orissa ; and

**WHEREAS** it has appeared that by the above-mentioned Proclamations certain territories were included within the Presidency of Fort William in Bengal and thereafter within the Province of Bihar and Orissa which territories have nevertheless continued to be administered in all respects as if they had continued to be included in the Central Provinces ; and

**WHEREAS** the Governor General in Council has, by Notification No. F-950 (Public), dated the eight day of March, 1923, and made under section 60 of the Government of India Act with the approval of the Secretary of State for India in Council, been pleased to declare and appoint that the said territories shall again be included in the Central Provinces ; and

**WHEREAS** it is expedient to declare the law which shall be applicable to the said territories and to provide that nothing done by any authority, executive or judicial, in for or in relation to the said territories since the sixteenth day of October, 1905, shall be brought in question on the ground that the said territories did not form part of the Central Provinces ; and to transfer the said territories from the jurisdiction of the High Court of Judicature at Patna to the jurisdiction of the Court of the Judicial Commissioner of the Central Provinces ; It is hereby enacted as follows :—

1. This Act may be called the Malkharoda and Gaontia Villages Laws Act, 1923.  
Short title.

2. Notwithstanding anything contained in the Bengal Bihar and Orissa and Assam Laws Act, 1912,\* the territories specified in the Schedule (hereinafter referred to as the said territories) shall not be deemed to be included within the Province of Bihar and Orissa and nothing in that Act shall be deemed to be applicable to the said territories ; but all enactments made by any authority in British India, and all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed under such enactments, which immediately before the commencement of this Act were in force in the Central Provinces and would have been in force in the said territories if they had been part of the Bilashpur district of the Central Provinces shall be in force in the said territories.

3. On and from the commencement of this Act, the High Court of Judicature at Patna shall cease to exercise within the said territories the jurisdiction and powers which the said High Court exercise from time to time within the limits of the places for which the said High Court was established ; and the said territories are hereby declared for all the purposes of the Central Provinces Courts Act, 1917,† to form part of the territories to which that Act extends.

4. No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie against any officer of the Government or against any person acting under the orders of any such officer for or on account of or in respect of any act, matter or thing ordered or done in or in relation to the said territories on the ground that the said territories were not, at the time at which such act, matter or thing was so ordered or done, included in the Central Provinces or that the law in force in the said territories was not at such time the law in force in the said Provinces, but was the law in force in the Sambalpur district of the Bengal Division of the Presidency of Fort William in Bengal or in the Sambalpur District of the Province of Bihar and Orissa.

5. No Court or authority, whether civil, criminal or revenue shall entertain any suit, claim, appeal or application whatsoever for the re-trial of any suit or case tried by any Court in the Central Provinces, or shall reverse, amend, declare invalid, or refuse to give effect to, anything done by any such Court or by any authority whatsoever established in the Central Provinces, or shall annul, amend, declare invalid, or refuse

\* VII of 1912.

† C. P. Act I of 1917.

to give effect to, any notification, order, rule, bye-law, instrument or document whatsoever, merely on the ground that at the time at which such suit or case was tried, or such thing was done, or such notification, order, rule, bye-law, instrument or document was issued, made or executed, the said territories were not included in the Central Provinces or that the law in the said territories was not at such time the law for the time being in force in the Central Provinces, but was the law for the time being in force in the Sambalpur district of the Bengal Division of the Presidency of Fort William in Bengal or in the Sambalpur district of Provinces of Bihar and Orissa.

### THE SCHEDULE.

(SEE SECTION 2.)

*Malkharoda Jagir.*

Serial Number.	Nmmer of Village.				Sttlement Num-ber.	Patwari Circle.	Total area of the village in acres.
1	Ameradih	...	...	...	1190	262	402.80
2	Kurda	...	...	...	1278	261	1376.39
3	Kurdi	...	...	...	1279	261	323.65
4	Kalmi	...	...	...	1249	263	1041.14
5	Charpara	...	...	...	1392	263	639.77
6	Chhapora	...	...	...	1418	261	1385.13
7	Dongridhi	...	...	...	1479	261	335.87
8	Nuagaon	...	...	...	1553	262	832.88
9	Pirdha	...	...	...	1606	261	1469.92
10	Pihirid	...	...	...	1608	262	1776.70
11	Bardhata	...	...	...	1663	261	244.90
12	Birbhata	...	...	...	1687	263	362.73
13	Bhatora	...	...	...	1722	262	830.96
14	Mohtara	...	...	...	1797	262	809.21
15	Malkharoda	...	...	...	1770	263	1445.48
16	Mukta	...	...	...	1776	263	901.72
17	Sipat (Bad)	...	...	...	1872	261	1871.96
18	Sipat (San)	...	...	...	1873	262	618.53
19	Sarasdol	...	...	...	1866	262	581.78
20	Senduras	...	...	...	1893	262	1361.35
	Total	...	...	...	...	...	18615.87

*Gaontia Village.*

Siral Number.	Name of Village.				Settlement number.	Patwari Circle.	Total area of the village in acres.
1	Kuhakunda	...	...	...	1287	284	616·57
2	Chharra	...	...	...	1419	278	665·85
3	Jogni	...	...	...	1441	287	701·09
4	Thakurpali	...	...	...	1466	287	149·48
5	Panchpurgia	...	...	...	1570	287	38·27
6	Panchpurgia	...	...	...	1571	282	24·10
7	Brahmapura	...	...	...	1664	285	63·41
8	Bardimal	...	...	...	1675	284	1233·92
9	Mahadebpali	...	...	...	1761	280	205·58
Total					...	...	3698·27

**ACT No. XXIII OF 1923.**

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 2nd April 1923.*

**An Act for the removal of doubts regarding the right of women to be enrolled and to practise as legal practitioners.**

Whereas it is expedient to remove certain doubts which have arisen as to the right of women to be enrolled and to practise as legal practitioners ; It is hereby enacted as follows :—

**1.** (1) This Act may be called the Legal Practitioners (Women) Act, 1923.

(2) It extends to the whole of British India, including British Baluchistan and Santhal Parganas.

**2.** In this Act. "legal practitioner" means a legal practitioner as defined in section 3 of the Legal Practitioners Act, 1879.\*

**3.** Notwithstanding anything contained in any enactment in force in British India or in the letters patent of any High Court or in any rule or order made under or in pursuance of any such enactment or letters patent, no woman shall, by reason only of her sex, be disqualified from being admitted or enrolled as a legal practitioner or from practising as such : and any such rule or order which is repugnant to the provisions of this Act shall, to the extent of such repugnancy be void.



## ACT No XXIV OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor-General on 19th July, 1923.*

### **An Act to provide for the forfeiture of the estates and other property of Mahendra Partab Singh and for their grant to his son subject to certain conditions.**

WHEREAS Mahendra Partab Singh, formerly a resident of Hathras in the District of Alighrah in the United Provinces, son of the late Raja Ghansham Singh Bahadur and adopted son of the late Raja Har Narayan Singh, did treasonably ally himself with and assist His Majesty's enemies in the late war and is now a fugitive from justice ; and

WHEREAS the estates of the said Mahendra Pratab Singh have been and are now attached under the provisions of the Bengal State Prisoners Regulation, 1818\* ; and

WHEREAS the said Mahendra Partap Singh was, at the date of the attachment, possessed of certain moveable property and other such property has been acquired since the said attachment ; and

WHEREAS it is expedient for the purpose of the proper administration of the said estates and property and for preventing the use of the same or the income thereof in a manner prejudicial to the safety and good government of British India that all the right, title, interest, claim and demand of the said Mahendra Partab Singh in the said estates and property should be forfeited and thereafter be transferred to his son, Prem Partab Singh, subject nevertheless to certain conditions ; It is hereby enacted as follows :—

Sort titie.

1. This Act may be called the Mahendra Partab Singh Estates Act 1923.

2. With effect from the commencement of this Act, the whole of the

Forfeiture of the property of Mahendra Partab Singh. estate, right, title, interest, claim and demand whatsoever of the said Mahendra Partab Singh in, to or upon the property specified in the Schedule and in, to or upon any other immoveable property of whatever description in British India, and in, to or upon all liberties, privileges, benefits, easements and appurtenances whatsoever belonging or in any-wise appertaining thereto or usually held or enjoyed therewith (all which estate, right, title, interest, claim and demand is hereinafter referred, to as the property) shall absolutely cease and be extinguished, and thereupon the property shall become vested in His Majesty.

3. The Governor General in Council, as soon as may be after the

Grant of the property to son of late owner.

commencement of this Act, shall grant the property to Prem Partab Singh, son of the said Mahendra Partab Singh subject to such provisions, restrictions, conditions, and limitations over as he may think fit.

## ACT No. XXV OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 25th July, 1923.*

### **An Act to modify certain provisions of the Indenture confirmed by the Moorshedabad Act, 1891.**

WHEREAS it is expedient to modify certain provisions of the Indenture confirmed by the Moorshedabad Act, 1891<sup>\*</sup>; It is hereby enacted as follows :—

1. This Act may be called the Moorshedabad (Amendment) Act, 1923.  
Short title.

2. The provisions of the Indenture set out in the Schedule to the Modification of Indenture. Moorshedabad Act, 1891,<sup>\*</sup> which provide that the Nawab Bahadur of Moorshedabad shall not, nor shall any of his successors, sell, mortgage, devise or alienate certain properties referred to in the said Indenture respectively or any of them otherwise than by lease or demise for a term not exceeding twenty one years and under a rent without bonus or salamee shall have effect as if for the words "for a term not exceeding twenty-one years and under a rent without bonus or salamee" the following words were substituted, namely :—

"the terms and conditions of which have been previously approved by the Governor of Bengal in Council" :

Provided that nothing herein contained shall affect anything done, or any right or liability which has accrued or been incurred, under any such lease or demise before the commencement of this Act.

## ACT No. XXVI OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 25th July, 1923.*

### **An Act further to amend the Code of Civil Procedure, 1908, for certain purposes.**

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908,<sup>†</sup> for certain purposes hereinafter appearing : it is hereby enacted as follows :—

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1923.  
Short title.

2. clause(i) of sub-section (1) of section 60 of the Code of Civil Procedure, 1908, for the word "twenty", wherever it occurs, the word "forty" and for the word "forty" the word "eighty", shall be substituted.

Amendment of section 60  
Act V of 1908.

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<sup>\*</sup> XV of 1891.

<sup>†</sup> Vol 1908.

## ACT No. XXVII OF 1923.

PASSED BY THE INDIAN LEGISLATURE,

*Received the assent of the Governor General on the 25th July, 1923.*

### An Act further to amend the Indian Income-tax Act, 1922, for certain purposes.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called Indian Income-tax (Further Amendment) Act, 1923.  
Short title.

2. In sub-section (2) of section 4 of the Indian Income-tax Act, 1922\* (hereinafter referred to as the said Act),  
Amendment of section 4, Act XI of 1922. for the words "shall be deemed to be profits and gains of the year in which they are received or brought into British India," the following words shall be substituted, namely :—

"shall, if they are received in or brought into British India, be deemed to have accrued or arisen in British India and to be profits and gains of the year in which they are so received or brought."

3. After Chapter V of the said Act the following Chapter shall be inserted namely :—  
Insertion of new Chapter VA in Act XI of 1922.

#### "CHAPTER VA.

##### SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SHIPPING.

44A. The provisions of this Chapter shall, notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and recovery of tax in the case of any person who resides out of British India and carries on business in British India in any year as the owner or Charterer of a ship such person hereinafter in this Chapter being referred to as the principal, unless the Income-tax Officer is satisfied that there is an agent of such principal from whom the tax will be recoverable in the following year under the other provisions of this Act.

44B. (1) Before the departure from any port in British India of any ship in respect of which the provisions of this Chapter apply, the master of the ship shall prepare and furnish to the Income-tax Officer a return of the full amount paid or payable to the principal or to any

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\* XI of 1922.

person on his behalf, on account of the carriage of all passengers, live-stock or goods shipped at that port since the last arrival of the ship thereat.

(2) On receipt of the return, the Income-tax Officer shall assess the amount referred to in sub-section (1), and for this purpose may call for such accounts or documents as he may require, and one twentieth of the amount so assessed shall be deemed to be the amount of the profits and gains accruing to the principal on account of the carriage of the passengers, live-stock and goods shipped at the port.

(3) When the profits and gains have been assessed as aforesaid, the Income-tax Officer shall determine the sum payable as tax thereon at the rate for the time being applicable to the total income of a company, and such sum shall be payable by the master of the ship and a port-clearance shall not be granted to the ship until the Customs, collector, or other officer duly authorised to grant the same, is satisfied that the tax has been duly paid.

44C. Nothing in this Chapter shall be deemed to prevent a principal Adjustmen.t from claiming, in any year following that in which any payment has been made on his behalf under this Chapter, that an assessment be made of his total income in the previous year, and that the tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and, if he so claims, any such payment as aforesaid shall be treated as a payment in advance of the tax and difference between the sum so paid and the amount of tax found payable by him shall be paid by him or refunded to him, as the case may be."

## ACT No. XXVIII OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 25<sup>th</sup> July 1923.*

**An Act to repeal the Acts which provide for the levy of a cess on indigo exported from British India.**

Whereas it is expedient to repeal the Acts which provide for the levy of a cess on indigo exported from British India ; It is hereby enacted as follows :—

Short title and commence-  
ment. **1. (1) This Act may be called the Indigo Cess (Repealing) Act, 1923.**

**(2) It shall come into force on the first day of August, 1923.**

Repeal. **2. The Indigo Cess Act, 1918\* and the Indigo Cess (Amendment) Act 1921† are hereby repealed.**

\* III of 1918.

† V of 1921.

## ACT No. XXIX OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 27th July 1923.*

### **An Act further to amend the Code of Civil Procedure, 1908.**

Whereas it is expedient further to amend the Code of Civil Procedure, 1908 ; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Code of Civil Procedure (Amendment) Act, 1923.

**1** In sub-rule (1) of rule 32 of Order XXI in the First Schedule to the Code of Civil Procedure, 1908\* (hereinafter referred to as the said Order), after the word "enforced" the following shall be inserted, namely :—

Amendment of rule 32 of Order XXI in Schedule I, Act V of 1908.

"in the case of a decree for restitution of conjugal rights by the attachment of his property or, in the case of a decree for the specific performance of a contract or for an injunction."

**3.** In rule 33 of the said Order,—

Amendment of rule 33 of Order XXI in Schedule I, Act V of 1908.

(a) in sub-rule (1), after the words "passing a decree" the words "against a husband" shall be inserted, and for the words "shall not be executed by detention in prison" the words "shall be executed in the manner provided in this rule" shall be substituted ; and

(b) in sub-rule (2), the words "and the decree-holder is the wife" shall be omitted.

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## ACT No. XXX OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 30th July 1923*

### **An Act further to amend the Special Marriage Act, 1872.**

Whereas it is expedient further to amend the Special Marriage Act, 1872† ; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Special Marriage (Amendment) Act, 1923.

**2.** In the preamble to the Special Marriage Act, 1872 (hereinafter referred to as the said Act), after the words "Jaina religion" the following words shall be inserted, namely :—

Amendment of preamble, Act III of 1872.

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\* V of 1908.

† III of 1872,

"and for persons who profess the Hindu, Buddhist, Sikh or Jaina religion"

3. In section 2 of the said Act, after the words "Jaina religion" the following words shall be inserted, namely :—

Amendment of section 2,  
Act III of 1872.

"or between persons each of whom professes one or other of the following religions, that is to say, the Hindu, Buddhist, Sikh or Jaina religion."

4. After section 21 of the said Act the following sections shall be inserted, namely :—

Addition of new sections  
to Act III of 1872.

"22. The marriage under this Act of any member of an undivided family who professes the Hindu, Buddhist, Sikh or Jaina religion shall be deemed to effect his severance from such family.

Effect of certain marriages  
on coparcenary.

23. A person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act shall have the same rights and be subject to the same disabilities in regard to any right of succession to any property as a person to whom the Caste Disabilities Removal Act, 1850,\* applies :

Rights of succession in  
certain cases of marriage  
under Act.

Provided that nothing in this section shall confer on any person any right to any religious office or service, or to the management of any religious or charitable trust.

24. Succession to the property of any person professing the Hindu, Buddhist, Sikh or Jaina religion, who marries under this Act, and to the property of the issue of such marriage, shall be regulated by the provisions of the Indian Succession Act, 1865.\*

Suocession to the pro-  
perty of parties married  
under Act.

25. No person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act shall have any right of adoption.

Person marrying under  
Act not to have right of  
adoption,

26. When a person professing the Hindu Buddhist, Sikh or Jaina religion marries under this Act, his father shall, if he has no other son living, have the right to adopt another person as a son under the law to which he is subject."

Adoption by father of  
person marrying under Act

5. In the Second Schedule to the said Act, after the words "Jaina religion" in both places where they occur, the following shall be inserted, namely :—

Amendment of Second  
Schedule to Act III of 1872.

"or (as the case may be) I profess the Hindu, or the Buddhist or the Sikh, or the Jaina religion".

\* XXI of 1850.

\* X of 1865.

**ACT No. XXXI of 1923.**

**PASSED BY THE INDIAN LEGISLATURE.**

*Received the assent of the Governor General on the 31st July 1923.*

**An Act to amend the Indian Force Act, 1920, and the Auxiliary Force Act, 1920 for certain purposes.**

WHEREAS it is expedient to amend the Indian Territorial Force Act, 1920,\* and the Auxiliary Force Act, 1920,† for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title,                      1. This Act may be called the Indian  
Territorial and Auxiliary Forces, (Amendment)  
Act, 1923.

Amendment of Section 11,  
Act XLVIII of 1920.

2. To section 11 of the Indian Territorial Force Act, 1920,\* the following sub-section shall be added, namely :—

“(3) Where an offence punishable under the Indian Army Act, 1911,† or, as the case may be, under that Act as modified under sub-section (2), has been committed by any person whilst subject to that Act under the provisions of this section, such person may be taken into and kept in military custody and tried and punished for such offence under that Act, although he has ceased to be so subject as aforesaid, in like manner as he might have been taken into and kept in military custody, tried or punished, if he had continued to be so subject :

Provided that no such person shall be kept in military custody after he has ceased to belong to the Indian Territorial Force, unless he has been taken into or kept in military custody on account of the offence before the date on which he ceased so to belong, nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial had already commenced before such expiry."

**3.** Section 21 of the Auxiliary Force Act, 1920†, shall be re-numbered as sub-section (1) of section 21, and to that section as so re-numbered the following sub-section shall be added, namely :—

Amendment of section 21,  
Act XLIX of 1920.

“(2) Where an offence punishable under the Army Act§ has been committed by any person whilst subject to that Act under the provisions of sub-section (1), such person may be taken into and kept in military custody and tried and punished for such offence, although he has ceased to be so subject as aforesaid, in like manner as he might have been taken into and kept in military custody, tried or punished if he had continued to be so subject :

Provided that no such person shall be kept in military custody after he has ceased to belong to the Auxiliary Force, India, unless he has been taken into or kept in military custody on account of the offence before the date on which he ceased so to belong nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial had already commenced before such expiry."

\* XLVIII of 1920. † XLIX of 1920. ‡ VIII of 1911. § 44 & 45 Vict., c 58.

## ACT No. XXXII of 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 31st July 1923.*

### **An Act further to amend the Indian Lunacy Act, 1912.**

WHEREAS it is expedient further to amend the Indian Lunacy Act 1912 ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Lunacy (Amendment) Act, 1923.

Amendment of section 20, Act IV of 1912.

2. To section 20 of the Indian Lunacy Act, 1912,\* the following proviso shall be added namely :—

“Provided that no reception order shall continue to have effect—

(a) after the expiry of thirty days from the date on which it was made, unless the lunatic has been admitted to the place mentioned therein within that period, or

(b) after the discharge, under the provisions of this Act, of the lunatic from such place or from any asylum to which he may have been removed.”

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## ACT No. XXXIII OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 31st July 1923.*

### **An Act further to amend the Indian Army Act, 1911, and the Indian Lunacy Act, 1912, for certain purposes.**

WHEREAS it is expedient further to amend the Indian Army Act, 1911,\* and the Indian Lunacy Act, 1912,† for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called Indian Army (Amendment) Act, 1923.

Amendment of section 7, Act VIII of 1911.

2. In section 7 of the Indian Army Act, 1911\* (hereinafter referred to as the said Act),—

(a) to clause (1) after the words “land forces” the following words shall be added, namely :—

“and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, a person holding a commission in His Majesty's Air Force” ; and

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\* IV of 1912. † VIII of 1911.



(b) in clause (7), after the words "Army Act" ~~the~~ words "or the Air Force Act" shall be added.

Amendment of section  
91A, Act VIII of 1911.

3. To section 91A of the said Act the following sub-section shall be added, namely :—

"(7) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act."

Insertion of new section  
103A in Act VIII of 1911.

4. In Chapter VIII of the said Act, after section 103 the following section shall be inserted, namely :—

"103A. (1) Whenever in the course of a trial by court-martial it appears to the Court that the person charged is of unsound mind and consequently incapable of making his defence, or that such person committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the Court shall record a finding accordingly, and the President of the Court or the officer holding the trial, as the case may be, shall forthwith report the case to the confirming officer, or, in the case of a court-martial whose finding does not require confirmation, to the prescribed officer.

(2) A confirming officer to whom a case is reported under sub-section (1) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another court-martial for the offence with which he was originally charged.

(3) A prescribed officer to whom a case is reported under sub-section (1) and a confirming officer confirming a finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner, and shall report the case for the orders of the Governor General in Council.

(4) On receipt of a report under sub-section (3), the Governor General in Council may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

(5) Where an accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention, the prescribed officer may—

(a) if such person is in custody under sub-section (3), on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained under sub-section (4), on a certificate such as is referred to in section 473 of the Code of Criminal Procedure, 1898.\*

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged or, provided that the offence is a civil offence, by a Criminal Court.

(6) A copy of every order made by the prescribed officer under sub-section (5) shall forthwith be sent to the Governor General in Council."

**5. In the Indian Lunacy Act, 1912\*—**

Amendment of sections 8,  
24, 30 and 35, Act IV of  
1912.

- (a) to clause (4) of sections 3 after the figures "1900" the words and figures "or of section 103A of the Indian Army Act 1911"† shall be added ;
- (b) in section 24, after the figures "1900" the words and figures "or under section 103A of the Indian Army, Act, 1911"† shall be inserted ;
- (c) in sub-section (1) of section 30, after the figures "1898" the words and figures "or under the provisions of section 103A of the Indian Army Act, 1911"† shall be inserted ; and
- (d) in sub-section (2) of section 35, after the figures "1898" the words and figures "or under section 103A of the Indian Army Act, 1911"† shall be inserted.

## ACT No. XXXIV OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 31st July 1923.*

### An Act to amend the Cutchi Memons Act, 1920.

WHEREAS it is expedient to amend the Cutchi Memons Act, 1920† ; It is hereby enacted as follows :—

Short title. **1. This Act may be called the Cutchi Memons (Amendment) Act, 1923.**

**2. (1) Section 2 of the Cutchi Memons Act, 1920† (hereinafter referred to as the said Act), shall be re-numbered as sub-section (1) of section 2, and in that sub-section as re-numbered for the words "Any Cutchi Memon who—**

- (a) has attained the age of majority, and
  - (b) is resident in British India,"
- the following shall be substituted, namely :—

"Any person who satisfies the prescribed authority—

- (a) that he is a Cutchi Memon and is the person whom he represents himself to be ;

(b) that he is competent to contract within the meaning of section 11 of the Indian Contract Act, 1872\* ; and

(c) that he is resident in British India."

(2) To the same section the following sub-section shall be added, namely :—

"(2) Where the prescribed authority refuses to accept a declaration under sub-section (1), the person desiring to make the same may appeal to such officer as the Local Government may, by general or special order, appoint in this behalf, and such officer may, if he is satisfied that the appellant is entitled to make the declaration order the proscribed authority to accept the same."

3. Sub-section (2) of section 3 of the said Act shall be re-numbered as sub-section (3), and for sub-section (1) of the same section the following sub-sections shall be substituted, namely :—

Amendment of section 3,  
Act XLVI of 1920.

"(1) The Local Government may make rules to carry into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :—

(a) for prescribing the authority before whom and the form in which declarations under this Act shall be made ;

(b) for prescribing the fees to be paid for the filing of declarations and for the attendance at private residences of any person in the discharge of his duties under this Act ; and for prescribing the times at which such fees shall be payable and the manner in which they shall be levied."

## ACT No. XXXV OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 31st July 1923.*

**An Act further to amend the Code of Criminal Procedure, 1898.**

Whereas it is expedient to give to mukhtars the right to practise in certain Criminal Courts and further to amend the Code of Criminal Procedure, 1898,† for that purpose ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Code of Criminal Procedure (Further Amendment) Act,

1923.

2. In clause (r) of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898,† after the words "means a pleader" the words "or a mukhtar" shall be inserted, and the words "mukhtar or" shall be omitted.

Amendment of section 4,  
Act V of 1898.

\* IX of 1872.

† V of 1898.

## ACT No. XXXVI OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 3rd August, 1923.*

### **An Act further to amend the Indian Paper Currency Act 1923.**

WHEREAS it is expedient further to amend the Indian Paper Currency Act 1923\* ; It is hereby enacted as follows :—

Short title, 1. This Act may be called the Indian Paper Currency (Amendment) Act. 1923.

2. To clause (a) of sub-section (8) of section 18 of the India Paper Currency Act, 1923,\* (hereinafter referred to as the said Act), after the word "purchased" the following words shall be added, namely :—  
Amendment of section 18, Act X of 1923,

"or, in the case of bullion obtained by melting down silver coin issued under the authority of the Governor General in Council, at the rate of one rupee for 165 grains troy of fine silver."

3. To sub-section (3) of section 19 of the said Act the following *Explanation* shall be added, namely :—  
Amendment of section 19, Act X of 1923.

"*Explanation.*—For the purposes of this sub-section, the sum expended in the purchase of silver bullion obtained by melting down silver coin issued under the authority of the Governor General in Council shall be deemed to be the value of the bullion calculated at the rate of one rupee for 165 grains troy of fine silver."

4. In section 20 of the said Act, for the word "fifty" the words "one hundred and twenty" shall be substituted.  
Amendment of section 20, Act X of 1923,

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\* X of 1923.

# ACT No. XXXVII OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 3rd August 1923.*

## **An Act further to amend the Code of Criminal Procedure, 1898. for certain purposes.**

Whereas it is expedient further to amend the Code of Criminal Procedure, 1898,\* for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title and commencement.      1. (1) The Act may be called the Code of Criminal Procedure (Second Amendment) Act, 1923.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Amendment of section 364, Act V of 1898.      2. In section 364 of the Code of Criminal Procedure, 1898\* (hereinafter referred to as the said Code),—

(a) in sub-section (3) the words “unless he is a Presidency Magistrate,” shall be omitted ; and

(b) in sub-section (4), for the words and figures “or section 362, sub-section (2A)” the following shall be substituted, namely :—

“or in the course of a trial held by a Presidency Magistrate”.

Substitution of new section for section 388, Act V of 1898.      3. For section 388 of the said Code the following section shall be substituted, namely :—

“388. (1) When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the fine is not paid forth with, the Court may—

Suspension of execution of sentence of imprisonment.

(a) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three instalments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval or at intervals, as the case may be, of not more than thirty days, and

(b) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a

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\* V of 1898.

bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be, is to be made : and, if the amount of the fine or of any instalment, as the case may be, is not realised on or before the latest date on which it is payable under the order, the Court may direct the sentence of imprisonment to be carried into execution at once.

- (2) The provisions of sub-section (1) shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith ; and, if the person against whom the order has been made, on being required to enter into a bond such as is referred to in that sub-section, fails to do so, the Court may at once pass sentence of imprisonment."

Amendment of section 562, Act V of 1898, 4. After sub-section (1) of section 562 of said Code the following sub-section shall be inserted, namely :—

"(1A) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Indian Penal Code punishable with not more than two years imprisonment and no previous conviction is proved against him, the Court before whom he is so convicted may, if it thinks fit, having regard to the age character. antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition."

Amendment of Schedule V, Act V of 1898. 5. In Schedule V to the said Code, in Form XXXVIIA,—

- (a) the words "until the day of" shall be omitted ; and  
(b) for the words "on that day ; " and for the words "on the said day of next," and for the words 'on the day of next,' the words "on the following date (or dates)', namely :—"shall be substituted.

Repeal, 6. Sections 98 and 104 of the Code of Criminal Procedure( Amendment) Act, 1923,\* are hereby repealed.

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\* XVIII of 1923.

## ACT No. XXXVIII OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 5th August 1922.*

### An Act further to amend the Land Acquisition Act, 1894, for certain purposes.

WHEREAS it is expedient further to amend the Land Acquisition Act, 1894,\* for certain purposes hereinafter appearing; It is hereby enacted as follows.

1. (1) This Act may be called the Land Acquisition (Amendment) Act, 1923.  
Short title and commencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In sub-section (1) of section 4 of the Land Acquisition Act, 1894\* (hereinafter referred to as the said Act), after the word "locality", where it first occurs, the words "is needed or" shall be inserted.  
Amendment of section 4, Act I of 1894.

3. After section 5 of the said Act the following heading and section shall be inserted, namely :—  
Insertion of new section 5A in Act I of 1894.

#### *"Objections.*

5A. (1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a Company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.  
Hearing of objections.

(3) Every objection under sub-section (1) shall be made to Collector in writing, and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the Local Government, together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the Local Government on the objections shall be final.

(3) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

4. In sub-section (1) of section 6 of the said Act, for the words  
 Amendment of section 6, Act I of 1894. "whenever it appears to the Local Government" the following shall substituted, namely :—

"when the Local Government is satisfied, after considering the report, if any, made under section 5A, sub-section (2)."

5. In section 11 of the said Act, after the words "the value of the land," the words "at the date of the publication of the notification under section 4, sub-section (1)" shall be inserted.  
 Amendment of section 11, Act I of 1894.

6. To section 17 of the said Act the sub-section shall be added.  
 Amendment of section 17, Act I of 1894. namely :—

(4) In the case of any land to which, in the opinion of the Local Government, the provisions of sub-section (1) one or sub-section (2) are applicable, the Local Government may direct that the provisions of section 5A shall not apply, and, if it does so direct, a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under section 4, sub-section (1).

7. In clause *first* of sub-section (1) of section 23 of the said Act, for the words "declaration relating thereto under section 6 ;" the words "notification under section 4, sub-section (1)," shall be substituted.  
 Amendment of section 23, Act I of 1894.

8. In clause *seventhly* of section 24 of the said Act, for the words "declaration under section 6, the words "notification under section 4, sub-section (1)," shall be substituted-  
 Amendment of section 24, Act of 1894.

9. In sub-section (1) of section 40 of the said Act, after the word "satisfied," the words "either on the report of the Collector under section 5A, sub-section (2), or" shall be inserted.  
 Amendment of section 40, Act I of 1894.

10. In section 41 of the said Act,—  
 Amendment of section 41 Act of 1894.

- (a) the words "Such officer shall report to the Local Government the result of the inquiry, and," shall be omitted, and
- (b) after the word "satisfied" the following words shall be inserted, namely :—

"after considering the report, if any, of the Collector under section 5A, sub-section (2), or on the report of the officer making an inquiry under section 40."

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## ACT No. XXXIX OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 5th August 1923.*

### **An Act further to amend the Indian Ports Act, 1908.**

WHEREAS it is expedient further to amend the Indian Ports Act, 1908\* ; It is hereby enacted as follows :—

1. This Act may be called the Indian Ports (Amedment) Act, 1923.  
Short title.

2. In sub-section (1) of section 6 of the Indian Ports Act, 1908  
Amendment of section 6, Act XV of 1908. (hereinafter, referred to as the said Act), after clause (e) the following clause shall be inserted, namely :—

“(ee) for regulating the manner in which oil or water mixed with oil shall be discharged in any such port and for the disposal of the same ;”

3. In section 21 of the said Act—

Amendment of section 21, Act XV of 1908.

(a) to sub-section (1) after the word “landlords” the following shall be added, namely :—

“and no oil or water mixed with oil shall be discharged in or into any such port, to which any rules made under clause (ee) of sub-section (1) of section 6 apply, otherwise than in accordance with such rules”;

(b) in sub-section (2)—

(i) after the words “such other thing” the words “or so discharges any oil or water mixed with oil” shall be inserted, and

(ii) for the words “or thrown” the words “thrown or discharged” shall be substituted ; and

(c) in sub-section (3)—

(i) after the words “such other thing” the words “or from so discharging any oil or water mixed with oil” shall be inserted, and

(ii) for the words “or throw it” the words “throw or discharge the same” shall be substituted ; and

(d) in sub-section (4), after the words “thrown into” the words “or the oil or water mixed with oil is discharged in or into” shall be inserted.

## ACT No. XL OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 5th August 1923.*

### **An Act further to amend the Indian Electricity Act, 1910.**

Whereas it is expedient further to amend the Indian Electricity Act, 1910\* ; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Indian Electricity (Amendment) Act, 1923.

Insertion of new section 29A in Act IX of 1910. **2.** After section 29 of the Indian Electricity Act, 1910,\* the following section shall be inserted, namely :—

“29A. The provisions of sub-sections (3) and (4) of section 18 and of the *Explanation* thereto shall apply in the case of any aerial line placed by any railway administration as defined in section 3 of the Indian Railways Act, 1890,† as if references therein to the licensee were references to the railway administration.”

Application of section 18 to aerial lines maintained by railways,

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## ACT No. XLI OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 5th August 1923.*

### **An Act to amend the Charitable and Religious Trusts Act 1923.**

Whereas it is expedient to amend the Charitable and Religious Trusts Act, 1920‡ ; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Charitable and Religious Trusts (Amendment) Act, 1923.

**2.** In section 2 of the Charitable and Religious Trusts Act, 1920,‡ after the words “the Court of the District Judge”, the words “or any other Court empowered in that behalf by the Local Government” shall be inserted.

Amendment of section 2, Act XIV of 1920,

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\* IX of 1910,

† IX of 1890.

‡ XIV of 1920.

## ACT No. XLII OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 5th August 1923.*

**An Act to make provision for the better management of wakf property and for ensuring the keeping and publication of proper accounts in respect of such properties.**

Whereas it is expedient to make provision for the better management of wakf property and for ensuring the keeping and publication of proper accounts in respect of such properties ; It hereby enacted as follows :—

### *Preliminary.*

Short title, extent and commencement.

**1. (1)** This Act may be called the Mussalman Wakf Act, 1923 ;

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas ;

(3) This section shall come into force at once ; and

(4) The local Government may, by notification in the local official Gazette, direct that the remaining provisions of this Act, or any of them which it may specify, shall come into force in the Province, or any specified part thereof, on such date as it may appoint in this behalf.

Definitions.

**2.** In this Act, unless there is anything repugnant in the subject or context,—

(a) “benefit” does not include any benefit which a mutwalli is entitled to claim solely by reason of his being such mutwalli ;

(b) “Court” means the Court of the District Judge or, within the limits of the ordinary original civil jurisdiction of a High Court, such Court, subordinate to the High Court, as the Local Government may, by notification in the local official Gazette, designate in this behalf ;

(c) “mutwalli” means any person appointed either verbally or under any deed or instrument by which a wakf has been created or by a Court of competent jurisdiction to be the mutwalli of a wakf, and includes a naib-mutwalli or other person appointed by a mutwalli to perform the duties of the mutwalli, and, save as otherwise provided in this Act, any person who is for the time being administering any wakf property ;

(d) “prescribed” means prescribed by rules made under this Act ; and

(e) “wakf” means the permanent dedication by a person professing the Mussalman faith of any property for any purpose recognised by the Mussalman law as religious, pious or charitable, but does not include any wakf, such as is described in section 3 of the Musalman Wakf Validating Act,

1913,\* under which any benefit is for the time being claimable for himself by the person by whom the wakf was created or by any of his family or descendants.

*Statements of Particulars.*

3. (1) Within six months from the commencement of this Act every mutwalli shall furnish to the Court within the local limits of whose jurisdiction the property of the wakf of which he is the mutwalli is situated, or to any one of two or more such Courts, a statement containing the following particulars, namely :—

- (a) a description of the wakf property sufficient for the identification thereof ;
- (b) the gross annual income from such property ;
- (c) the gross amount of such income which has been collected during the five years preceding the date on which the statement is furnished, or of the period which has elapsed since the creation of the wakf, whichever period is shorter ;
- (d) the amount of the Government revenue and cesses, and of all rents, annually payable in rents, annually payable in respect of the wakf property ;
- (e) an estimate of the expenses annually incurred in the realisation of the income of the wakf property, based on such details as are available of any such expenses incurred within the period to which the particulars under clause (c) relate ;
- (f) the amount set apart under the wakf for—
  - (i) the salary of the mutwalli and allowances to individuals ;
  - (ii) purely religious purposes ;
  - (iii) charitable purposes ;
  - (iv) any other purposes ; and
- (g) any other particulars which may be prescribed.

(2) Every such statement shall be accompanied by a copy of the deed or instrument creating the wakf or, if no such deed or instrument has been executed or a copy thereof cannot be obtained, shall contain full particulars, as far as they are known to the mutwalli, of the origin, nature and objects of the wakf.

(3) Where—

- (a) a wakf is created after the commencement of this Act, or
- (b) in the case of a wakf such as is described in section 3 of the Wakf Validating Act, 1913,\* the person creating the wakf or any member of his family or any of his descendants is at the commencement of this Act alive and entitled to claim any benefit thereunder,

the statement referred to in sub-section (1) shall be furnished, in the case referred to in clause (a), within six months of the date on which the wakf is created or, if it has been created by a written document, of the date on which such document is executed, or, in the case referred to in

\* VI of 1913.

+ I of 1913.

clause (b), within six months of the date of the death of the person entitled to such benefit as aforesaid, or of the last survivor of any such persons, as the case may be.

4. (1) When any statement has been furnished under section 3, the Court shall cause notice of the furnishing thereof to be affixed in some conspicuous place in the Court-house and to be published in such other manner, if any, as may be prescribed, and thereafter any person may apply to the Court by a petition in writing, accompanied by the prescribed fee, for the issue of an order requiring the mutwalli to furnish further particulars or documents.

(2) On such application being made, the Court may, after making such inquiry, if any, as it thinks fit, if it is of opinion that any further particulars or documents are necessary in order that full information may be obtained regarding the origin, nature or objects of the wakf or the condition or management of the wakf property, cause to be served on the mutwalli an order requiring him to furnish such particulars or documents within such time as the Court may direct in the order.

#### *Statement of Accounts, and Audit.*

5. Within three months after the thirty-first day of March next following the date on which the statement referred to in section 3 has been furnished, and thereafter within three months of the thirty-first day of March in every year, every mutwalli shall prepare and furnish to the Court to which such statement was furnished a full and true statement of accounts, in such form and containing such particulars as may be prescribed, of all moneys received or expended by him on behalf of the wakf of which he is the mutwalli during the period of twelve months ending on such thirty-first day of March or, as the case may be, during that portion of the said period during which the provisions of this Act have been applicable to the wakf:

Provided that the Court may, if it is satisfied that there is sufficient cause for so doing, extend the time allowed for the furnishing of any statement of accounts under this section.

6. Every statement of accounts shall, before it is furnished to the Court under section 5, be audited—

- (a) in the case of a wakf the gross income of which during the year in question, after deduction of the land-revenue and cesses, if any, payable to the Government, exceeds two thousand rupees, by a person who is the holder of a certificate granted by the Local Government under section 144 of the Indian Companies Act, 1913,\* or is a member of any institution or association the members of which have been declared under that section to be entitled to act as auditors of companies throughout British India ; or

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\* VII of 1913.

(b) in the case of any other wakf, by any person authorised in this behalf by general or special order of the said Court.

*General Provisions.*

7. Notwithstanding anything contained in the deed or instrument creating any wakf, every mutwalli may pay from the income of the wakf property any expenses properly incurred by him for the purpose of enabling him to furnish any particulars, documents or copies under section 3 or section 4 or in respect of the preparation or audit of the annual accounts for the purposes of this Act.

8. Every statement of particulars furnished under section 3 or section 4, and every statement of accounts furnished under section 5, shall be written in the language of the Court to which it is furnished, and shall be verified in the manner provided in the Code of Civil Procedure, 1908,\* for the signing and verification of pleadings.

9. Any person shall, with the permission of the Court and on payment of the prescribed fee, at any time at which the Court is open, be entitled to inspect in the prescribed manner, or to obtain a copy of, any statement of particulars or any document furnished to the Court under section 3 or section 4, or any statement of accounts furnished to it under section 5, or any audit report made on an audit under section 6.

*Penalty.*

10. Any person who is required by or under section 3 or section 4 to furnish a statement of particulars or any document relating to a wakf, or who is required by section 5 to furnish a statement of accounts, shall, if he, without reasonable cause the burden of proving which shall lie upon him, fails to furnish such statement of document, as the case may be, in due time, or furnishes a statement which he knows or has reason to believe to be false, misleading or untrue in any material particular, or, in the case of a statement of accounts, furnishes a statement which has not been audited in the manner required by section 6, be punishable with fine which may extend to five hundred rupees, or, in the case of a second or subsequent offence, with fine which may extend to two thousand rupees.

*Rules.*

11. (1) The Local Government may, after previous publication, by notification in the local official Gazette, make rules to carry into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the additional particulars to be furnished by mutwallis under clause (g) of sub-section (1) of section 3 ;

(b) the fees to be charged upon applications made to a Court under sub-section (1) of section 4 ;

\* V of 1908.

- (c) the form in which the statement of accounts referred to in section 5 shall be furnished and the particulars which shall be contained therein ;
  - (d) the powers which may be exercised by auditors for the purpose of any audit referred to in section 6, and the particulars to be contained in the reports of such auditors ;
  - (e) the fees respectively chargeable on account of the allowing of inspections and of the supply of copies under section 9 ;
  - (f) the safe custody of statements, audit reports and copies of deeds or instruments furnished to Courts under this Act ; and
  - (g) any other matter which is to be or may be prescribed.
- 12.** Nothing in this Act shall—

**Savings—**

- (a) affect any other enactment for the time being in force in British India providing for the control or supervision of religious or charitable endowments ; or
- (b) apply in the case of any wakf the property of which—
- (i) is being administered by the treasurer of Charitable Endowments, the Administrator General, or the Official Trustee ; or
- (ii) is being administered either by a receiver appointed by any Court of competent jurisdiction, or under a scheme for the administration of the wakf which has been settled or approved by any Court of competent jurisdiction or by any other authority acting under the provisions of any enactment.

**13.** The Local Government may, by notification in the local official Gazette, exempt from the operation of this Act or of any specified provision thereof any wakf or wakfs created or administered for the benefit or any specified section of the Mussalman community.

**Exemption.**

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# ACT No. XLIII OF 1923.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 1st October, 1923.*

## **An Act further to amend the Indian Stamp Act, 1899.**

WHEREAS it is expedient further to amend the Indian Stamp Act, 1899\* ; It is hereby enacted as follows :—

Short title.	<b>1.</b> This Act may be called the Indian Stamp (Amendment) Act, 1923.
Amendment of Schedule I, Act II of 1899.	<b>2.</b> In Schedule I to the Indian Stamp Act, 1899,—

(i) In each of the following Articles, namely, No. 19, No. 36, No. 37 and No. 52, in the second column, for the words "One anna" the words "Two annas" shall be substituted ;

(ii) In Article No. 47—

(a) in Division B, in the first column for the words "Fire-Insurance" the words "Fire Insurance and other classes of Insurance, not elsewhere included in this Article, covering goods, merchandise, personal effects, crops, and other property against loss or damage ;" and

(b) in Division E, in the first column, for the words "of sea-insurance or a policy of fire-insurance" the words "of the nature specified in Division A or Division B of this Article."

shall be substituted ;

(iii) For Article No. 49 the following shall be substituted namely :—  
"Promissory note [as defined by section 2 (22)]—

(a) when payable on demand—

(i) when the amount or value does not exceed Rs. 250 ;

One anna.

(ii) when the amount or value exceeds Rs. 250 but does not exceed Rs. 1,000.

Two annas.

(iii) in any other case.

Four annas.

(b) when payable otherwise than on demand.

The same duty as a Bill of Exchange (No. 13) for the same amount payable otherwise than on demand."

\* II of 1899.





# **ACTS OF INDIAN LEGISLATURE**

**FOR**

**1924.**

—:O:—

Compiled by

**N. D. BASU, B. L.,  
VAKIL.**

—:O:—

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## TABLE OF CONTENTS.

No of Act.	Names of Act.	Page.
I	The Indian Cotton Cess Act, 1923 ... ..	1
II	The Cantonments Act ... ..	3
III	Immigration into India Act ... ..	118
IV	The Central Board of Revenue Act ... ..	120
V	The Indian Penal Code (Amendment) Act ... ..	125
VI	The Criminal Tribes Act, 1924 ... ..	126
VII	The Repealing and Amending Act ... ..	137
	The Indian Finance Act, 1924 ... ..	140
VIII	The Sea Customs (Amendment) Act, 1924 ... ..	145
IX	The Indian Tariff (Amendment) Act, ... ..	145
X	The Indian Coinage (Amendment) Act, 1924 ... ..	146
XI	The Indian Income-tax (Amendment) Act, ... ..	147
XII	The Indian Soldiers (Litigation) (Amendment) Act, ... ..	149
XIII	The Indian (Specified Instruments) Stamp Act, 1924 ... ..	150
XIV	The Steel Industry (Protection) Act, ... ..	151
XV	The Indian Motor Vehicles Act, 1924 ... ..	157
XVI	The Indian Post office (Amendment) Act, 1924 ... ..	158
XVII	The Imperial Bank of India Act, 1914 ... ..	159
XVIII	The Indian Criminal Law (Amendment) Act, 1914 ... ..	160
XIX	The Land Customs Act, 1914 ... ..	162



# ACTS OF INDIAN LEGISLATURE

## FOR 1924.

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### ACT No. I of 1924.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 16th February, 1924.*

#### **An Act to amend the Indian Cotton Cess Act, 1923 for certain purposes.**

WHEREAS it is expedient to amend the Indian Cotton Cess Act, 1923,\* for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Cotton Cess (Amendment) Act, 1924.

2. To clause (a) of section 2 of the Indian Cotton Cess Act, 1923\*  
Amendment of section 2, Act XIV of 1923. (hereinafter referred to as the said Act), after the word "situated" the following shall be added, namely :—

"or any other officer appointed by the Local Government to perform the duties of a Collector under this Act."

3. Section 3 of the said Act shall be re-numbered as sub-section (1) of section 3, and to that section the following sub-section shall be added, namely :—  
Amendment of section 3, Act XIV of 1923.

"(2) The Governor General in Council may, by notification in the Gazettee of India, direct that the cess referred to in sub-section (1) shall be levied and collected on all cotton produced in India and exported by land from British India to any foreign territory outside India which may be specified in the notification."

4. Section 8 of the said Act shall be re-numbered as sub-section (1) of section 8, and to that section the following sub-section shall be added, namely :—  
Amendment of section 8, Act XIV of 1923.

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\* XIV of 1923.

"(2) In respect of cotton exported by land on which the cess is leviable, the cess shall be assessed and levied by such authorities and in such manner as may be prescribed."

5. In clause (r) of sub-section (2) of section 15 of the said Act, after the words "by sea" the words "or by land" shall be inserted.

Amendment of section 15,  
Act XIV of 1923.

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# **ACT No. II of 1924.**

**PASSED BY THE INDIAN LEGISLATURE.**

*Received the assent of the Governor General on the  
16th February, 1924.*

## **THE CANTONMENTS ACT.**

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### **TABLE OF CONTENTS.**

---

#### **CHAPTER I.**

##### **PRELIMINARY.**

##### **SECTIONS.**

1. Short title, extent and commencement.
  2. Definitions.
- 

#### **CHAPTER II.**

##### **DEFINITION AND DELIMITATION OF CANTONMENTS.**

3. Definition of cantonments.
  4. Alteration of limits of cantonments.
  5. The effect of including area in cantonment.
  6. Disposal of cantonment fund when area ceases to be a cantonment.
  7. Disposal of cantonment fund when area ceases to be included in a cantonment.
  8. Application of funds and property transferred under sections 6 and 7.
  9. Limitation of operation of Act.
- 

#### **CHAPTER III.**

##### **CANTONMENT AUTHORITIES AND CANTONMENT BOARDS.**

##### *Cantonments Authorities.*

10. Cantonment Authority and Executive Officer.
11. Governor General in Council to decide whether Cantonment Board shall be constituted.



## SECTIONS.

12. Incorporation of Cantonment Authority.
13. Appointment of Executive Officer.
14. Constitution of Cantonment Board.
15. Term of office of members.
16. Filling of vacancies.
17. Vacancies in special cases.
18. Oath or affirmation.
19. Resignation.
20. President and Vice-President.
21. Term of office of Vice-President.
22. Duties of President.
23. Duties of Vice-President.
24. Duties of the Executive Officer.
25. Special power of the Executive Officer.

*Elections.*

26. Electoral rolls.
27. Qualification of electors.
28. Qualification for being a member of the Board.
29. Interpretation.
30. Joint families, etc.
31. Power to make rules regulating elections.
32. Member not to vote on matter in which he is interested.
33. Liability of members.
34. Removal of members.
35. Consequences of removal.

*Servants.*

36. Disqualification of person as servant of Cantonment Authority.

*Procedure.*

37. Meetings.
38. Business to be transacted.
39. Quorum.
40. Presiding officer.
41. Minutes.
42. Meetings to be public.
43. Method of deciding questions.
44. Power to make regulations.
45. Joint action with other local authority.

*Control.*

46. Power of Government to require production of documents.
47. Inspection.
48. Powers of Officer Commanding the District.
49. Power to require execution of work, etc.
50. Power to provide for enforcement of direction under section 49.

## SECTIONS.

- 51. Power to override decision of Board.
- 52. Power of Officer Commanding-in-Chief, the Command on reference under section 51 or otherwise.
- 53. Powers of Local Government on a reference made under section 51.
- 54. Supersession of Board.

*Validity of Proceedings.*

- 55. Validity of proceeding, etc.
- 

## CHAPTER IV.

## SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

- 56. Unauthorised sale of spirituous liquor or intoxicating drug.
  - 57. Unauthorised possession of spirituous liquor.
  - 58. Arrest of persons and seizure and confiscation of things for offences against the two last foregoing sections.
  - 59. Saving of articles sold or supplied for medicinal purposes.
- 

## CHAPTER V.

## TAXATION.

*Imposition of Taxation.*

- 60. General power of taxation.
- 61. Framing of preliminary proposals.
- 62. Objections.
- 63. Consideration of objections and imposition of tax.
- 64. Definition of annual value.
- 65. Incidence of taxation.

*Assessment List.*

- 66. Assessment list.
- 67. Publication of assessment list.
- 68. Revision of assessment list.
- 69. Authentication of assessment list.
- 70. Evidential value of assessment list.
- 71. Amendment of assessment list.
- 72. Preparation of new assessment list.
- 73. Notice of transfers.
- 74. Notice of erection of buildings.

## SECTIONS.

*Remission and Refund.*

- 75. Demolition, etc., of buildings.
- 76. Remission of tax.
- 77. Power to require entry in assessment list of details of building.
- 78. What buildings, etc., are to be deemed vacant.
- 79. Notice to be given of every occupation of vacant building or house.

*Charge on Immoveable Property.*

- 80. Tax on buildings and land to be a charge thereon.

*Octroi, Terminal Tax and toll.*

- 81. Inspection of imported goods, etc.
- 82. Evasion of octroi or terminal tax.
- 83. Lease of octroi, terminal tax or toll.

*Appeals.*

- 84. Appeals against assessment.
- 85. Costs of appeal.
- 86. Recovery of costs from Cantonment Authority.
- 87. Conditions of right to appeal.
- 88. Finality of appellate orders.

*Payment and Recovery of Taxes.*

- 89. Time and manner of payment of taxes.
- 90. Presentation of bill.
- 91. Notice of demand.
- 92. Recovery of tax.
- 93. Distress.
- 94. Disposal of distrained property.
- 95. Recovery from a person about to leave cantonment.
- 96. Power to institute suit for recovery.

*Special provisions relating to Taxation.*

- 97. Power to prohibit or exempt from taxation.
  - 98. Power to make special provision for conservancy in certain cases.
  - 99. Exemption in the case of buildings.
  - 100. Exemption of poor persons.
  - 101. Composition.
  - 102. Irrecoverable debts.
  - 103. Obligation to disclose liability.
  - 104. Immaterial error not to effect liability.
  - 105. Distraint not to be invalid by reason of immaterial defect.
-

## SECTIONS.

## CHAPTER VI.

## CANTONMENT FUND AND PROPERTY.

*Cantonment Fund.*

- 106. Cantonment fund.
- 107. Custody of Cantonment fund.

*Property.*

- 108. Property.
  - 109. Application of cantonment fund and property.
  - 110. Acquisition of immoveable property.
  - 111. Power to make rules regarding cantonment fund and property.
- 

## CHAPTER VII.

## CONTRACTS.

- 112. Contracts by whom to be executed.
  - 113. Sanction.
  - 114. Execution of contracts.
  - 115. Contracts improperly executed not to be binding on a Cantonment Authority.
- 

## CHAPTER VIII.

## DUTIES AND DISCRETIONARY FUNCTIONS OF CANTONMENT AUTHORITIES.

- 116. Duties of Cantonment Authority.
  - 117. Discretionary functions of Cantonment Authority.
- 

## CHAPTER IX.

## PUBLIC SAFETY AND SUPPRESSION OF NUISANCES.

*General Nuisances.*

- 118. Penalty for causing nuisances.

*Dogs.*

- 119. Registration and control of dogs.

## SECTIONS.

*Traffic.*

120. Rule of the road.

*Prevention of fire, etc.*

- 121. Use of inflammable materials for building purposes.
  - 122. Stacking or collecting inflammable materials.
  - 123. Care of naked lights.
  - 124. Regulation of cinematographic and dramatic performances.
  - 125. Discharging fire-works, fire-arms, etc.
  - 126. Power to require buildings, wells, etc., to be rendered safe.
  - 127. Enclosure of waste land used for improper purposes.
- 

## CHAPTER X.

## SANITATION AND THE PREVENTION AND TREATMENT OF DISEASE.

*Sanitary Authorities.*

- 128. Responsibility for sanitation.
- 129. General duties of Health Officer.

*Conservancy and Sanitation.*

- 130. Public latrines, urinals and conservancy establishments.
- 131. Power of Cantonment Authority to undertake private conservancy arrangements.
- 132. Deposit and disposal of rubbish, etc.
- 133. Cess-pools, receptacles for filth, etc.
- 134. Filling up of tank, etc.
- 135. Provision of latrines, etc.
- 136. Sanitation in factories, etc.
- 137. Private latrines.
- 138. Removal of congested buildings.
- 139. Overcrowding of dwelling houses.
- 140. Power to require repair or alteration of building.
- 141. Power to require land or building to be cleansed.
- 142. Power to order disuse of house.
- 143. Removal of noxious vegetation.
- 144. Agriculture and irrigation.

*Burial and Burning Grounds.*

- 145. Power to call for information regarding burial and burning grounds.
- 146. Permission for use of new burial or burning ground.
- 147. Power to require closing of burial or burning ground.
- 148. Exemption from operation of sections 145 to 147.
- 149. Removal of corpses.

*Prevention of Infectious or Contagious Diseases.*

## SECTIONS.

- 150. Obligation to give information or infectious or contagious diseases.
- 151. Special measures in case of outbreak of infectious or epidemic diseases.
- 152. Power to require names of dairyman's customers.
- 153. Power to require names of a washerman's customers.
- 154. Report after inspection of dairy or washerman's place of business.
- 155. Action on report submitted by Health Officer.
- 156. Examination of milk or washed clothes.
- 157. Contamination of public conveyance.
- 158. Disinfection of public conveyance.
- 159. Penalty for failure to report.
- 160. Driver of conveyance not bound to carry person suffering from infectious or contagious disease.
- 161. Disinfection of building or articles therein.
- 162. Destruction of infectious hut or shed.
- 163. Temporary shelter for inmates of infected or destroyed building or shed.
- 164. Disinfection of building before letting the same.
- 165. Disposal of infected article without disinfection.
- 166. Means of disinfection,
- 167. Making or selling of food, etc., or washing clothes by infected person.
- 168. Power to restrict or prohibit sale of food or drink.
- 169. Control over wells, tanks, etc.
- 170. Disposal of infectious corpse.

*Hospitals and Dispensaries.*

- 171. Maintenance or aiding of hospitals or dispensaries.
- 172. Medical supplies, appliances, etc.
- 173. Free patient.
- 174. Paying patients.
- 175. Power to order person to attend hospital or dispensary.
- 176. Power to exclude from cantonment persons refusing to attend hospital or dispensary.

*Control of Traffic for Hygienic purposes.*

- 177. Routes for pilgrims and others.

*Special conditions regarding essential services.*

- 178. Conditions of service of sweepers.

## CHAPTER XI.

## CONTROL OVER BUILDINGS, STREETS, BOUNDARIES, TREES, ETC.

## SECTIONS.

- 179. Notice of new buildings.
- 180. Conditions of valid notice.
- 181. Power of Cantonment Authority to sanction or refuse.
- 182. Compensation.
- 183. Lapse of sanction.
- 184. Illegal erection and re-erection.
- 185. Power to stop erection or re-erection or to demolish
- 186. Power to make bye-laws.
- 187. Projections and obstructions.
- 188. Unauthorised buildings over drains, etc.
- 189. Troughs and pipes for rain water.
- 190. Power to attach brackets for lamps

*Streets.*

- 191. Temporary occupation of street, land etc.
- 192. Closing and opening of streets.
- 193. Names of streets and numbers of buildings.

*Boundaries and Trees.*

- 194. Boundary walls, hedges and fences.
  - 195. Felling, lopping and trimming of trees.
  - 196. Digging of public land.
  - 197. Improper use of land.
- 

## CHAPTER XII.

## MARKETS, SLAUGHTER-HOUSES, TRADES AND OCCUPATIONS.

- 198. Public markets and slaughter-houses.
- 199. Use of public market.
- 200. Levy of stallages, rents and fees.
- 201. Stallages, rents, etc., to be published.
- 202. Private markets and slaughter-houses.
- 203. Conditions of grant of licence for private market or slaughter-houses.
- 204. Penalty for keeping market or slaughter-house open without licence, etc.
- 205. Penalty for using unlicensed market or slaughter-house.
- 206. Prohibition and restriction of use of slaughter-houses.
- 207. Power to inspect slaughter houses.
- 208. Power to make bye-laws.

*Trades and Occupations.*

## SECTIONS.

- 209. Provision of washing places.
- 210. Licences required for carrying on of certain occupations.
- 211. Conditions which may be attached to licences.

*General Provisions.*

- 212. Power to vary licence.
- 213. Carrying on trade, etc., without licence or in contravention of section 212.
- 214. Feeding animals on dirt, etc.

*Entry, Inspection and Seizure.*

- 215. Powers of entry and seizure.

*Import of Cattle and Flesh.*

- 216. Import of cattle and flesh.

## CHAPTER XIII.

## WATER SUPPLY, DRAINAGE AND LIGHTING.

*Water Supply.*

- 217. Maintenance of water supply.
- 218. Control over sources of public water supply.
- 219. Power to require maintenance or closing of private source of public drinking water supply.
- 220. Supply of water.
- 221. Power to require water supply to be taken.
- 222. Supply of water under agreement.
- 223. Cantonment Authority not liable for failure of supply.
- 224. Conditions of universal application.
- 225. Supply to persons outside cantonment.
- 226. Penalty.

*Water, Drainage and other connections.*

- 227. Power of Cantonment Authority to lay wires, connections, etc.
- 228. Wires, etc., laid above surface of ground.
- 229. Connection with main not to be made without permission.
- 230. Power to prescribe ferrules and to establish meters, etc.
- 231. Power of inspection.
- 232. Power to fix rates and charges.

*Application of this Chapter to Government Water Supplies.*

- 233. Government water supply.
- 234. Recovery of charges.



## CHAPTER XIV.

## REMOVAL AND EXCLUSIONS FROM CANTONMENTS AND SUPPRESSION OF SEXUAL IMMORALITY.

## SECTIONS.

- 235. Power to remove brothels and prostitutes.
  - 236. Penalty for loitering and importuning for purposes of prostitution.
  - 237. Removal of lewd persons from cantonment.
  - 238. Removal and exclusion from cantonments of disorderly persons.
  - 239. Removal and exclusion from cantonment of seditious persons.
  - 240. Penalty.
- 

## CHAPTER XV.

## POWERS, PROCEDURE, PENALTIES AND APPEALS.

*Entry and Inspection.*

- 241. Powers of entry.
- 242. Powers of inspection by member of a Boord.
- 243. Power of inspection, etc.
- 244. Power to enter land adjoining land where work is in progress.
- 245. Breaking into premises.
- 246. Entry to be made in the day time.
- 247. Owner's consent ordinarily to be obtained.
- 248. Regard to be had to social and religious usages.
- 249. Penalty for obstruction.

*Powers and Duties of Police Officers.*

- 250. Arrest without warrant.
- 251. Duties of police officers.

*Notices.*

- 252. Notices to fix reasonable time.
- 253. Authentication and validity of notices issued by Cantonment Authority.
- 254. Service of notice, etc.
- 255. Method of giving notice.
- 256. Powers of Cantonment Authority in case of non-compliance with notice, etc.

*Recovery of Money.*

- 257. Liability of occupier to pay in default of owner.
- 258. Relief to agents and trustees.
- 259. Method of recovery.

*Committees of Arbitration.*

## SECTIONS.

- 260. Application for a Committee of Arbitration.
- 261. Procedure for convening Committee of Arbitration.
- 262. Constitution of Committee of Arbitration.
- 263. No person to be nominated who has direct interest and whose services are not immediately available.
- 264. Meetings and powers of Committees of Arbitration.
- 265. Decisions of Committees of Arbitration.

*Prosecutions.*

- 266. Prosecutions.
- 267. Composition of offences.

*General Penalty Provisions.*

- 268. General penalty.
- 269. Cancellation and suspension of licences.
- 270. Recovery of amount payable in respect of damage to cantonment property.

*Limitation.*

- 271. Limitation for prosecution.

*Suits.*

- 272. Protection of Cantonment Authority, Executive Officer, etc.
- 273. Notice to be given of suits.

*Appeals and Revision.*

- 274. Appeals from executive orders.
- 275. Petition of appeal.
- 276. Suspension of action pending appeal.
- 277. Revision.
- 278. Finality of appellate orders.
- 279. Right of appellant to be heard.

## CHAPTER XVI.

## RULES AND BYE-LAWS.

- 280. Power to make rules.
- 281. Supplemental provisions respecting rules.
- 282. Power to make bye-laws.
- 283. Penalty for breach of bye-laws.
- 284. Supplemental provisions regarding bye-laws.
- 285. Rules and bye-laws to be available for inspection and purchase.

## CHAPTER XVII.

## SUPPLEMENTAL PROVISIONS

## SECTIONS.

- 286. Extension of certain provisions of the Act and rules to places beyond cantonments.
- 287. Registration.
- 288. Validity of notices and other documents.
- 289. Admissibility of document or entry as evidence.
- 290. Evidence by officer or servant of the Cantonment Authority.
- 291. Application of Act IV of 1899.
- 292. Repeals.

SCHEDULE I.—Notice of Demand.

SCHEDULE II.—Form of Warrant.

SCHEDULE III.—Form of Inventory of Property Distrained and Notice of Sale.

SCHEDULE IV.—Cases in which Police may arrest without Warrant.

SCHEDULE V.—Appeals from Orders.

SCHEDULE VI.—Enactments repealed.

### An Act to consolidate and amend the law relating to the administration of cantonments.

WHEREAS it is expedient to consolidate and amend the law relating to the administration of cantonments; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Cantonments Act, 1924.

(2) It extends to the whole of British India, including British Baluchistan.

(3) The Governor General in Council may, by notification in the Gazette of India, direct that this Act, or any provisions thereof which he may specify, shall come into force on such date as he may appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(i) "Assistant Health Officer" means the medical officer appointed by the Officer Commanding the District to be the Assistant Health Officer for cantonment;

(ii) "Board" means a Cantonment Board constituted under this Act;

(iii) "brigade area" means one of the brigade areas, whether occupied by a brigade or not into which India is for military purposes for the time being divided, and includes for all or

any of the purposes of this Act any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a brigade area for such purpose or purposes ;

- (iv) "building" means any house, hut, out-house, shed, stable or other roofed structure for whatever purpose or of whatever material constructed, or any part thereof and includes a well but does not include a tent or other portable and temporary shelter ;
- (v) "Cantonment Authority" means a Board or in the case of a cantonment where a Board has not been constituted or has ceased to exist, the Commanding Officer of the cantonment ;
- (vi) "casual election" means an election held to fill a casual vacancy ;
- (vii) "casual vacancy" means a vacancy occurring otherwise than by efflux of time in the office of an elected member of a Board ;
- (viii) "Command" means one of the Commands into which India is for military purposes for the time being divided, and includes any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a Command for all or any of the purposes of this Act ;
- (ix) "Commanding Officer of the cantonment" means the military officer for the time being in command of the forces in a cantonment, or if that officer is the officer Commanding the District, the military officer who would be in command of those forces in the absence of the Officer Commanding the district ;
- (x) "dairy" includes any farm, cattle shed, milk-store, milk-shop or other place from which milk is supplied or in which milk is kept for purposes of sale or is manufactured for sale in butter, ghee, cheese or curds, and, in relation to a dairyman who does not occupy any premises for the sale of milk, includes any place in which he keeps the vessels used by him for the storage or sale of milk ;
- (xi) "dairyman" includes the keeper of a cow, buffalo, goat, ass or other animal, the milk of which is offered or is intended to be offered for sale for human consumption, and any purveyor of milk and any occupier of a dairy ;
- (xii) "Executive Engineer" means the Public Works officer of that grade, or the Military Works officer of the corresponding grade, having charge of the military works in a cantonment, and includes the officer of whatever grade in immediate executive engineering charge of a cantonment ;
- (xiii) "Executive Officer" means the person appointed under this Act to be the Executive Officer of cantonment ;
- (xiv) "Health Officer" means the senior executive medical officer in military employ on duty in a cantonment ;

- (xv) "hill cantonment" means any cantonment declared by the Local Government, by notification in the local official Gazette to be a hill cantonment for the purposes of this Act ;
- (xvi) "hut" means any building no material portion of which above the plinth level is constructed of masonry or of squared timber framing or of iron framing ;
- (xvii) "infectious or contagious disease" means cholera, leprosy enteric fever, small-pox, tuberculosis, diphtheria, plague, influenza, venereal disease, and any other epidemic endemec, or infectious disease which the Local Government may, by notification in the local official Gazette, declare to be an infectious or contagious disease for the purposes of this Act ;
- (xviii) "inhabitant" in relation to a cantonment, or local area, means any person ordinarily residing or carrying on business or owning or occupying immoveable property therein, and in case of a dispute means any person declared by the District Magistrate to be an inhabitant ;
- (xix) "intoxicating drug" means opium, ganja, bhang, charas and any preparation or admixture thereof, and includes any other intoxicating substance, or liquid which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare to be an intoxicating drug for the purpose of this Act ;
- (xx) "market" includes any place where persons assemble for the purpose of selling meat, fish, fruit, vegetables, live-stock or any other article of food ;
- (xxi) "military officer" means—
  - (a) a person who, being an officer within the meaning of the Army Act or the Indian Army Act, 1911,\* or the Air Force Act, is commissioned and in pay as an officer doing military or air force duty with His Majesty's military or air forces, or is an officer doing such duty in any arm, branch or part of those forces ; or
  - (b) a person doing military or air force duty as a warrant officer with either of those forces or with any arm, branch, or part thereof, whether he is or is not an officer within the meaning of the Army Act or the Indian Army Act, 1911,\* or the Air Force Act ;
- (xxii) "nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing, or which is or may be dangerous to life or injurious to health or property ;
- (xxiii) "occupier" includes an owner in occupation of, or otherwise using, his own land or building ;

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\* 44 & 45 Vict., c. 58. VIII of 1911.

- (xxiv) "Officer Commanding the District" means the Officer Commanding any one of the districts into which India is for military purposes for the time being divided, or any brigade area which does not form part of any such district, or any area which the Governor General in Council may, by notification in the Gazette of India declare to be such a district for all or any of the purposes of this Act ;
- (xxv) "ordinary election" means an election held to fill a vacancy in the office of an elected member of a Board arising by efflux of time ;
- (xxvi) "owner " includes any person who is receiving or is entitled to receive the rent of any building or land whether on his own account or on behalf of himself and others or as an agent or trustee or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant ;
- (xxvii) "party wall" means a wall forming part of a building and used or constructed to be used for the support or separation of adjoining buildings belonging to different owners, or constructed or adapted to be occupied by different persons ;
- (xxviii) "private market" means a market which is not maintained by a Cantonment Authority and which is licensed by a cantonment Authority under the provisions of this Act ;
- (xxix) "private slaughter-house" means a slaughter-house which is not maintained by a Cantonment Authority and which is licensed by a cantonment Authority under the provisions of this Act ;
- (xxx) "public market" means a market maintained by a Cantonment Authority ;
- (xxxi) "public place" means any place which is open to the use and enjoyment of the public, whether it is actually used or enjoyed by the public or not ;
- (xxxii) "public slaughter-house" means a slaughter-house maintained by a Cantonment Authority ;
- (xxxiii) "shed" means a slight or temporary structure for shade or shelter ;
- (xxxiv) "slaughter-house" means any place ordinarily used for the slaughter of animals for the purpose of selling the flesh thereof for human consumption ;
- (xxxv) "soldier" means a person who is a soldier or airman within the meaning of the Army Act\* or the Air Force Act, or is subject to the Indian Army Act, 1911,† and who is not a military officer ;
- (xxxvi) "spirituous liquor" means any fermented liquor, any wine, or any alcoholic liquid obtained by distillation or the sap of any kind of palm tree, and includes any other liquid con-

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\* 44 & 45 Vict., c. 58.

† VIII of 1911,

taining, alcohol which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare to be a spirituous liquor for the purposes of this Act ;

(xxxvii) "street" includes any way, road, lane, square, court, alley, passage or open space in a cantonment whether a thoroughfare or not and whether built upon or not, over which the public have a right-of-way and also the road-way or foot-way over any bridge or causeway ;

(xxxviii) "vehicle" means a wheeled conveyance of any description which is capable of being used on a street, and includes a motor-car, motor lorry, motor-omnibus, cart, locomotive, tram-car, hand-cart, truck, motor-cycle, bicycle, tricycle, and rickshaw ; and

(xxxix) "water-works" includes all lakes, tanks, streams, cisterns, springs, pumps, wells, reservoirs, aqueducts, water-trucks, sluices, mains, pipes, culverts, hydrants, stand-pipes, and conduits, and all machinery, lands, buildings, bridges and things, used for, or intended for the purpose of, supplying water to a cantonment.

## CHAPTER II.

### DEFINITION AND DELIMITATION OF CANTONMENTS.

3. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare any place or places in which any part of His Majesty's regular forces or regular air force is quartered or which, being in the vicinity of any such place or places, is or are required for the service of such forces to be a cantonment for the purposes of this Act and of all other enactments for the time being in force, and with the like sanction, may, by a like notification, declare that any cantonment shall cease to be a cantonment.

(2) The Local Government, with the like sanction, may, by a like notification, define the limits of any cantonment for the aforesaid purposes.

4. (1) The Local Government, with the previous sanction of the Governor General in Council, may by notification in the local official Gazette, declare its intention to include within a cantonment any local area situated in the immediate vicinity thereof or to exclude from a cantonment any local area comprised therein.

(2) Any inhabitant of a cantonment or local area in respect of which a notification has been published under sub section (1) may, within six weeks from the date of the notification, submit in writing to the Local

Government through the Officer Commanding-in-Chief, the Command, an objection to the notification, and the Local Government shall take such objection into consideration,

(3) On the expiry of six weeks from the date of the notification, the Local Government may, with the previous sanction of the Governor General in Council, after considering the objections, if any, which have been submitted under sub-section (2), by notification in the local official Gazette, include the local area in respect of which the notification was published under sub-section (1), or any part thereof, in the cantonment or, as the case may be, exclude such area or any part thereof from the cantonment.

5. When, by a notification under section 4, any local area is included in a cantonment, such area shall thereupon become subject to this Act and to all other enactments for the time being in force throughout the cantonment and to all notifications, rules, regulations, bye-laws, orders and directions issued or made thereunder.

6. (1) When, by a notification under section 3, any cantonment ceases to be a cantonment and the local area comprised therein is immediately placed under the control of a local authority, the balance of the cantonment fund and other property vesting in the Cantonment Authority shall vest in such local authority, and the liabilities of the Cantonment Authority shall be transferred to such local authority.

(2) When, in like manner, any cantonment ceases to be a cantonment and the local area comprised therein is not immediately placed under the control of a local authority, the balance of the cantonment fund and other property vesting in the Cantonment Authority shall vest in His Majesty, and the liabilities of the Cantonment Authority shall be transferred to the Secretary of State in Council.

7. (1) When, by a notification under section 4, any local area forming part of a cantonment ceases to be under the control of a particular Cantonment Authority and is immediately placed under the control of some other local authority, such portion of the cantonment fund and other property vesting in the Cantonment Authority, and such portion of the liabilities of the Cantonment Authority, as the Governor General in Council may, by general or special order, direct, shall be transferred to that other local authority.

(2) When, in like manner, any local area forming part of a cantonment ceases to be under the control of a particular Cantonment Authority and is not immediately placed under the control of some other local authority, such portion of the cantonment fund and other property vesting in the Cantonment Authority shall vest in His Majesty, and such portion of the liabilities of the Cantonment Authority shall be transferred to the Secretary of State in Council, as the Governor General in Council may, by general or special order, direct.



8. Any cantonment fund or portion of a cantonment fund or other property of a Cantonment Authority vesting in His Majesty under the provisions of section 6 or section 7 shall be applied in the first place to satisfy any liabilities of the Cantonment Authority transferred under such provisions to the Secretary of State in Council, and in the second place for the benefit of the inhabitants of the local area which has ceased to be a cantonment or, as the case may be, part of a cantonment.

9. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, exclude from the operation of any part of this Act the whole or any part of a cantonment. or direct that any provision of this Act shall, in the case of any cantonment specified in the notification in which there is no Board, apply with such modifications as may be so specified.

### CHAPTER III.

#### CANTONMENT AUTHORITIES AND CANTONMENT BOARDS.

##### *Cantonment Authorities.*

10. (1) For every cantonment beyond the limits of a Presidency-town there shall be a Cantonment Authority and an Executive Officer.

(2) Where a cantonment is situated within the limits of a Presidency-town the functions assigned to any authority by or under this Act shall, subject to the provisions of any other law for the time being in force, be discharged by such authority as the Local Government may, by notification in the local official Gazette, appoint in this behalf.

11. The Governor General in Council may, by notification in the Gazette of India, order in respect of any cantonment that a Cantonment Board shall be constituted therein, any may, by a like notification, order that any Board so constituted shall cease to exist.

12. (1) Every Board shall, by the name of the Board of the place by reference to which the cantonment is known, be a body corporate having perpetual succession and a common seal with power to acquire and hold property both moveable and immoveable and to contract and shall, by the said name, sue and be sued.

(2) In the case of any cantonment where there is no Board, the Cantonment Authority shall be a corporation sole by the name of the Cantonment Authority of the place by reference to which the cantonment

is known, and as such Cantonment Authority shall have perpetual succession and an official seal with power to acquire and hold property both moveable and immoveable and to contract and shall, by the said name, sue and be sued.

13. The Executive Officer of every cantonment shall be appointed by the Governor General in Council, or by such person as the Governor General in Council may authorise in this behalf, and, in a cantonment where there is a Board, shall be the Secretary, but shall not be a member, thereof.

Provided that, in the case of any cantonment where there is a Board, the Governor General in Council may direct that the Executive Officer may be appointed by the Board subject to such conditions as the Governor General in Council may impose.

14. (1) Every Board shall consist of the following members, namely :—

- (a) the Commanding Officer of the cantonment ;
- (b) a Magistrate of the first class nominated by the District Magistrate ;
- (c) the Health Officer ;
- (d) the Executive Engineer ;
- (e) such military officers not exceeding four in number as may be nominated by the Commanding Officer of the cantonment by order in writing :

Provided that the Commanding Officer of the cantonment may, if he thinks fit, with the sanction of the Officer Commanding the District, nominate in place of any military officer whom, he is empowered to nominate under this clause any person, whether in the service of the Government or not, who is ordinarily resident in the cantonment or in the vicinity thereof, to represent any interest or community not otherwise represented on the Board ;

- (f) such number of members elected under this Act as is equal to the number of members appointed or nominated by or under clauses (b) to (e) :

Provided that, in the case of any cantonment—

- (a) in which the total civil population is, according to the latest census, less than two thousand five hundred in number, or
- (b) which is situate in the North West Frontier Province or in British Baluchistan, the Local Government may, by notification in the local official Gazette, declare that the provisions of clauses (e) and (f) shall not apply and may, with the concurrence of the Officer Commanding-in-Chief, the Command, by a like notification, nominate as members of the Board not more than three persons who are resident in the cantonment or in the vicinity thereof and who either own land or house property in the cantonment or carry on business therein.

(2) Every election, nomination or appointment of a member of a Board and every vacancy in the membership thereof shall be notified by the Local Government in the local official Gazette.

15. (1) Save as otherwise provided in this section, the term of office of a member of a Board shall be three years and shall commence from the date of the notification of his election or nomination under sub-section (2) of section 14, or from the date on which the vacancy has occurred in which he is elected or nominated, whichever date is later.

(2) The term of office of an *ex-officio* member of a Board shall continue so long as he holds the office in virtue of which he is such a member.

(3) The term of office of a member elected to fill a casual vacancy shall commence from the date of election, and shall continue so long only as the member in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

(4) An outgoing member shall, unless the Local Government otherwise direct, continue in office until the election or nomination of his successor is notified under sub-section (2) of section 14.

(5) Any outgoing member may, if qualified, be re-elected or re-nominated.

16. (1) Vacancies arising by efflux of time in the office of an elected member of a Board shall be filled by an ordinary election to be held on such date as the Local Government may, by notification in the local official Gazette, direct.

(2) A casual vacancy shall be filled by a casual election the date of which shall be fixed by the Local Government by notification in the local official Gazette, and shall be, as soon as may be, after the occurrence of the vacancy :

Provided that no casual election shall be held to fill a vacancy occurring within three months of any date on which the vacancy will occur by efflux of time, but such vacancy shall be filled at the next ordinary election.

17. (1) If from any cause at an ordinary election no member is elected or if the elected member is unwilling to serve on the Board, the outgoing member shall, if qualified and willing to serve, be deemed to have been re-elected.

(2) If in any such case the outgoing member is not qualified or is not willing to serve, or if at a casual election no member is elected, the vacancy shall be filled by nomination by the Local Government with the concurrence of the Officer Commanding-in-Chief, the Command.

(3) The term of office of a member nominated or deemed to have been re-elected under this section shall expire at the time at which it would have expired if he had been elected at the ordinary or casual election, as the case may be.

18. (1) Every person who is by virtue of his office, or who is nominated or elected to be, a member of a Board shall, before taking his seat, make at a meeting of the Board an oath or affirmation of his allegiance to the Crown in the following form, namely :—

"I, A. B., having <sup>become</sup>  
been elected  
been nominated a member of this Board, do solemnly swear (or affirm) that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, his heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter."

(2) If any such person fails to make the oath or affirmation within such time as the Local Government considers reasonable, the Local Government shall, by notification in the local official Gazette, declare his seat to be vacant.

19. (1) Any nominated or elected member of a Board who wishes to resign his office may forward his resignation in writing through the President of the Board to the Officer Commanding-in-Chief, the Command who shall forward it for orders to the Local Government.

(2) If the Local Government accept the resignation, such acceptance shall be communicated to the Board, and thereupon the seat of the member resigning shall become vacant.

President and Vice-President. 20. (1) The Commanding Officer of the cantonment shall be the President of the Board.

(2) There shall be a Vice-President of every Board elected from among the members at a meeting thereof :

Provided that, where the Board includes elected members, the Vice-President shall be elected by those members only from among their number.

Term of office of Vice-President. 21. (1) The term of office of a Vice-President shall be—

(a) in the case of a person who is not in the service of the Government three years or the residue of his term of office as a member, whichever is less, or

(b) in the case of a person in the service of the Government, the residue of the terms of his office as a member.

(2) A Vice-President may resign his office by notice in writing to the President and, on the resignation being accepted by the Board, the office shall become vacant.

Duties of President. 22. (1) It shall be the duty of the President of every Board—

(a) unless prevented by reasonable cause, to convene and preside at all meetings of the Board and to regulate the conduct of business thereat ;

- (b) to exercise supervision and control over the financial and executive administration of the Board ;
- (c) to perform all the duties and exercise all the powers specifically imposed or conferred on the President by or under this Act ; and
- (d) subject to any restrictions, limitations and conditions imposed by this Act, to exercise executive power for the purpose of carrying out the provisions of this Act and to be directly responsible for the fulfilment of the purposes of this Act.

(2) The President may, by order in writing, empower the Vice-President to exercise all or any of the powers and duties referred to in clause (c) of sub-section (1) other than any power, duty or function which he is by resolution of the Board expressly forbidden to delegate.

(3) The exercise or discharge of any powers, duties or functions delegated by the President under this section shall be subject to such restriction, limitations and conditions, if any, as may be laid down by the President and to the control of, and to revision by, the President.

(4) Every order made under sub-section (2) shall forthwith be communicated to the Board and to the Officer Commanding the District.

**23** It shall be the duty of the Vice-President of every Board—

Duties of Vice-President.

- (a) in the absence of the President and unless prevented by reasonable cause, to preside at meetings of the Board and when so presiding to exercise the authority of the President under sub-section (1) of section 22 ;
- (b) during the incapacity or temporary absence of the President or pending his appointment or succession, to perform any other duty and exercise any other power of the President ; and
- (c) to exercise any power and perform any duty of the President which may be delegated to him under sub-section (2) of section 22.

**24.** The Executive Officer shall perform all the duties imposed upon him by or under this Act, and shall be

Duties of the Executive Officer.

responsible for the custody of all the records of the Cantonment Authority, and shall arrange for the performance of such duties relative to the proceedings of the Board or of any Committee of the Board or any Committee of Arbitration constituted under this Act, as those bodies may respectively impose on him, and shall comply with every requisition of the Cantonment Authority on any matter pertaining to the administration of the cantonment.

**25.** The Executive Officer may, in cases of emergency, direct the

Special Power of the Executive Officer.

execution of any work or the doing of any act which would ordinarily require the sanction of the Cantonment Authority and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the cantonment fund ;

**Provided that—**

- (a) where there is a Board, he shall not act under this section without the previous sanction of the President or, in his absence, of the Vice-President ;
- (b) he shall not act under this section in contravention of any order of the Cantonment Authority prohibiting the execution of any particular work or the doing of any particular act; and
- (c) he shall report forthwith the action taken under this section and the reason therefor to the Cantonment Authority.

*Elections.*

26. (1) Where a Board is to be constituted in any cantonment, otherwise than in accordance with the proviso to sub-section (1) of section 14, the Cantonment Authority shall prepare and publish an electoral roll showing the names of persons qualified to vote at elections to the Board. Such roll shall be prepared, revised and finally published in such manner and on such date in each year as the Local Government may by rule prescribe.

(2) Every person whose name appears in the final electoral roll shall, so long as the roll remains in force, be entitled to vote at an election to the Board, and no other person shall be so entitled.

(3) When a cantonment has been divided into wards, or the inhabitants into classes, the electoral roll shall be divided into separate lists for each ward or class, as the case may be.

(4) If a new electoral roll is not published in any year on the date prescribed, the Local Government may direct that the old electoral roll shall continue in operation until the new roll is published.

27. (1) The following persons shall, if not otherwise disqualified, be entitled to be enrolled as electors, namely :—  
Qualification of electors.

(a) every person who in any year has, on or before such date as may be fixed by the Local Government in this behalf by notification in the local official Gazette (hereinafter in this section referred to as the aforesaid date) ; been assessed directly and on his own account to taxes under this Act (other than octroi, toll or terminal tax), the aggregate value whereof is not less than such amount as the Local Government may by rule prescribe, and who on the aforesaid date is not in arrears in the payment of any such tax ;

(b) every person who has for a period of not less than twelve months immediately preceding the aforesaid date resided in the cantonment and on the aforesaid date—

(i) is the owner or the mortgagee in possession or the lessee of any building or land in the cantonment, of an annual value calculated in such manner and of not less than such amount, as the Local Government may by rule prescribe ;  
or

- (ii) is carrying on any business in the cantonment from which he derives an annual income calculated in such manner and of not less than such amount, as the Local Government may by rule prescribe ; or
  - (iii) is a graduate of any University established by law in British India ; or
  - (iv) is a retired or pensioned officer, whether commissioned or non-commissioned, of His Majesty's forces ;
  - (c) every person who has, during a period of not less than twelve months immediately preceding the aforesaid date, resided in the cantonment and has during that period been assessed to income-tax :
- (2) A person, notwithstanding that he is otherwise qualified, shall not be entitled to be enrolled as an elector if he on the aforesaid date—
- (i) is not a British subject, or
  - (ii) is less than 21 years of age, or
  - (iii) has been adjudged by a competent Court to be of unsound mind, or
  - (iv) is an undischarged insolvent, or
  - (v) has been sentenced by a Criminal Court to imprisonment for a term exceeding six months or to transportation or has been ordered to find security for good behaviour under the Code of Criminal Procedure, 1898,\* or has been sentenced by a Criminal Court for any offence under Chapter IXA of the Indian Penal Code† :

Provided that the Local Government may, by order in writing, remove any disqualification incurred by a person under clause (v).

(3) If any person having been enrolled as an elector in any electoral roll subsequently becomes subject to any of the disqualification referred to in clauses (i), (iii), (iv) and (v) of sub-section (2), his name shall be removed from the electoral roll unless, in the case referred to in clause (v), the disqualification is removed by the Local Government.

28 (1) Save as hereinafter provided, every person, not being a Qualification for being a member of the Board. a military officer or soldier, whose name is entered on the electoral roll of a cantonment shall be qualified for election as a member of the Board in that cantonment.

(2) No person shall be qualified for election or nomination as a Board, if he—

- (a) has been dismissed from Government service and is debarred from re-employment therein, or is a dismissed servant of the Cantonment Authority ;

\* V of 1898.

† XLV of 1860.

- (b) is debarred from practising as a legal practitioner by order of any competent authority ;
- (c) holds any place of profit in the gift or at the disposal of the of the Board, or is a stipendiary Magistrate or police officer or is the servant or employer of a member of the Board ; or
- (d) is interested in a subsisting contract made with, or in work being done for, the Board except as a shareholder (other than a director) in an incorporated company ; or
- (e) is disqualified under any other provision of this Act :

Provided that—

- (i) any of the disqualification referred to in clauses (a) and (b) may be removed by an order of the Local Government in this behalf, and
- (ii) a person shall not be deemed to have any interest in such a contract or work as is referred to in clause (d) by reason only of his having a share or interest in—
  - (a) any lease or sale or purchase of immovable property or any agreement for the same, or
  - (b) any agreement for the loan of money or any security for the payment of money only, or
  - (c) any newspaper in which any advertisement relating to the affairs of the Board is inserted, or
  - (d) the sale to the Board of any articles in which he regularly trades or the purchase from the Board of any articles, to a value in either case not exceeding Rs. 1,500 in the aggregate in any year during the period of the contract or work.

29. For the purposes of sections 26, 27 and 28—

Interpretation.

- (a) "person" means an individual human being, and
- (b) a person shall be deemed to pay a tax directly if he pays the tax either himself or through a legally appointed agent.

30. Notwithstanding anything hereinbefore contained, the Local Government may make rules conferring on the manager or representative of an undivided family or of any company or firm or other association or body or on any trustee of any land a right to be enrolled as an elector or to be nominated as a candidate at elections to a Board.

31. The Local Government may, either generally or specially for any cantonment or group of cantonments, after previous publication, make rules consistent with this Act to regulate all or any of the following matters, for the purpose of the holding of elections under this Act, namely :—

Power to make rules regulating elections.



- (a) the division of a cantonment into wards, or of the inhabitants of a cantonment into classes, or both ;
- (b) the determination of the number of members to be elected by each ward or class of persons ;
- (c) the method by which the annual value of buildings and lands shall be calculated for the purposes of section 27 ;
- (d) the preparation, revision and final publication of electoral rolls ;
- (e) the registration of electors, the nomination of candidates, the time and manner of holding elections and the method by which votes shall be recorded ;
- (f) the authority by which and the manner in which disputes relating to electoral rolls or arising out of elections shall be decided, and the powers and duties of such authority, and the circumstances in which such authority may declare a casual vacancy to have been created or any candidate to have been elected ;
- (g) any other matter relating to elections or election disputes in respect of which the Local Government is empowered to make rules under this Chapter or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Local Government, necessary.

#### *Members.*

32. No member of a Board shall vote at a meeting of the Board on any question relating to his own conduct or on any matter, other than a matter affecting generally the inhabitants of the cantonment, which affects his own pecuniary interest or the valuation of any property in respect of which he is directly or indirectly interested, or of any property of or for which he is a manager or agent.

33. Every member of a Board shall be liable for the loss, waste or misapplication of any money or other property belonging to the Board if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while such member ; and a suit for compensation for the same may be instituted against him either by the Board or by the Secretary of state for India in Council.

34. (1) The Local Government may remove from a Board any member thereof who—

- (a) has absented himself for more than three consecutive months from the meetings of the Board and is unable to explain such absence to the satisfaction of the Board ; or
- (b) is an undischarged insolvent ; or
- (c) is adjudged by a competent Court to be of unsound mind, or is deaf and dumb or a leper ; or

- (d) has been sentenced by a Criminal Court to imprisonment for a term exceeding six months or to transportation, or has been ordered to furnish security for his good behaviour under the Code of Criminal Procedure' 1898,\* or has been sentenced by a Criminal Court for any offence under Chapter IXA of the Indian Penal Code ; or
- (e) is interested in a subsisting contract made with, or in work being done for, the Board in such a manner as to be disqualified under section 28 for election or nomination as a member ; or
- (f) has knowingly contravened the provisions of section 32 ; or
- (g) being a legal practitioner, acts or appears on behalf of any other person against the Board in any legal proceeding or against the Secretary of State in Council in any such proceeding relating to any matter in which the Board is or has been concerned, or acts or appears on behalf of any person in any criminal proceeding instituted by or on behalf of the Board against such person.

(2) The Local Government may remove from Board any member who, in the opinion of the Local Government, has so flagrantly abused in any manner his position as a member of the Board as to render his continuance as a member detrimental to the public interests.

(3) No member shall be removed from a Board under this section unless he has been given a reasonable opportunity of showing cause against his removal.

35. (1) A member removed under clause (a) of sub-section (1) of section 34 shall, if otherwise qualified, be eligible for re-election or nomination.

Consequences of removal.

(2) A member removed under clause (b) of sub-section (1) of section 34 shall not be eligible for re-election or nomination until he has obtained his discharge.

(3) A member removed under sub-section (2) of section 34 shall not be eligible for re-election or nomination until the expiry of three years from the date of his removal.

(4) A member removed under any other provision of section 34 shall not be eligible for re-election or nomination until he is declared so eligible by the Local Government by notification in the local official Gazette.

#### *Servants.*

36. (1) No person who has directly or indirectly by himself or his partner any share or interest in a contract with, as servant of Cantonment Authority by or on behalf of a Cantonment Authority or in any employment under, by or on behalf of a Cantonment Authority, otherwise than as a servant of the Cantonment Authority, shall become or remain a servant of such Cantonment Authority.

\* V of 1898.

† XLV of 1860.

(2) A servant of a cantonment Authority who knowingly acquires or continues to have directly or indirectly by himself or his partner any share or interest in a contract with, by or on behalf of the cantonment Authority or, in any employment under, by or on behalf of, the Cantonment Authority, otherwise than as a servant of the cantonment Authority, shall be deemed to have committed an offence under section 168 of the Indian penal Code.

(3) Nothing in this section shall apply to any share or interest in any contract with, by or on behalf of, or employment under, by or on behalf of, a Cantonment Authority if the same is a share in a company contracting with, or employed by, or on behalf of, the Cantonment Authority or is a share or interest acquired or retained with the permission of the Officer Commanding the district in any lease or sale to, or purchase by, the Cantonment Authority of land or buildings or in any agreement for the same.

*Procedure.*

37. (1) Every Board shall ordinarily hold at least one meeting in  
 Meetings. every month on such day as may be fixed, and  
 of which notice shall be given in such manner  
 as may be provided, by regulations made by the Board under this  
 Chapter.

(2) The President may, whenever he thinks fit, and shall, upon a requisition in writing by not less than one fourth of the members of the Board, convene a special meeting.

(3) Any meeting may be adjourned until the next or any subsequent day, and an adjourned meeting may be further adjourned in like manner.

38. Subject to any regulation made by the Board under this Chap-  
 Business to be transacted. ter, any business may be transacted at any  
 meeting :

Provided that no business relating to the imposition, abolition or modification of any tax shall be transacted at a meeting unless notice of the same and of the date fixed therefor has been sent to each member not less than seven days before that date.

39. (1) The quorum necessary for the transaction of business at a  
 Quorum. meeting of a Board shall be five or one-half of  
 the number of members of the Board actually  
 holding office at the time, whichever is the greater number.

(2) If a quorum is not present, the President shall adjourn the meeting and the business which would have been brought before the original meeting if there had been a quorum present thereat shall be brought before, and may be transacted at, an adjourned meeting, whether there is a quorum present or not.

40. In the absence of both the President and the Vice-President  
 Presiding officer. from any meeting, the members present shall  
 elect one from among their own number to  
 preside.

41. (1) Minutes of the proceedings of each meeting shall be recorded in a book and shall be signed by the President before the close of the meeting, and shall, at such times and in such place as may be fixed by the Board, be open to inspection free of charge by any inhabitant of the cantonment.

Minutes.

(2) Copies of the minutes shall, as soon as possible after each meeting, be forwarded for information to the officer Commanding the District, the Officer Commanding the brigade area, and the District Magistrate.

42. Every meeting of a Board shall be open to the public unless in any case the President. for reasons to be recorded in the minutes, otherwise directs.

Meeting to be public.

43. (1) All questions coming before a meeting shall be decided by the majority of the votes of the members present and voting.

Method of deciding ques-  
tions.

(2) In the case of an equality of votes, the President shall have a second or casting vote.

(3) The dissent of any member from any decision of the Board shall, if the member so requests, be entered in the minutes, together with a short statement of the grounds for such dissent.

44. (1) A Board may make regulations consistent with this Act and with the rules made thereunder to provide for all or any of the following matters; namely :—

Power to make regula-  
tions.

- (a) the time and place of its meetings ;
- (b) the manner in which notice of the meeting shall be given ;
- (c) the conduct of proceedings at meetings and the adjournment of meetings ;
- (d) the custody of the common seal of the Board and the purposes for which it shall be used ; and
- (e) the appointment of committees for any purpose and the determination of all matter relating to the constitution and procedure of such committees, and the delegation to such committees, subject to any conditions which the Board thinks fit to impose, of any of the powers or duties of the Board under this Act other than a power to make regulations or bye-law.

(2) No regulation made under clause (e) of sub-section (1) shall take effect until it has been approved by Local Government.

(3) No regulation made under this section shall take effect until it has been published in such manner as the Local Government may direct.

45. (1) A Cantonment Authority may—

Joint action with other  
local authority.

(a) join with any other local authority—

(i) in appointing a joint committee for any purpose

in which they are jointly interested and in appointing a chairman of such committee ;

(ii) in delegating to such committee power to frame terms binding on the Cantonment Authority and such other local authority as to the construction and future maintenance of any joint work or to exercise any power which might be exercised by either of the said authorities ; and

(iii) in making rules for regulating the proceedings of any such committee relating to the purposes for which it has been appointed ; or

(b) with the previous sanction of the Local Government, enter into an agreement with any other local authority regarding the levy of any tax or toll whereby the said tax or toll respectively leviable by the authorities so contracting may be levied together instead of separately within the limits of the aggregate area comprising the areas subject to the control of the said authorities.

(2) If any difference of opinion arises between any authorities acting together under this section, the decision thereon of the Local Government or of an officer appointed by the Local Government in this behalf shall be final.

(3) When any agreement such as is referred to in clause (b) of subsection (1) has been entered into, then—

(a) where the agreement relates to an octroi or terminal tax or toll, the other local authority with which the Cantonment Authority has made such agreement shall have the same powers to establish octroi limits and octroi stations and places for the collection of the terminal tax and terminal toll within the cantonment, as it has within the area ordinarily subject to its control ;

(b) such other local authority shall have the same power of collecting such tax or toll in the cantonment, and the provisions of any enactment in force relating to the levy of such tax or toll by such other local authority shall apply in the same manner, as if the cantonment were comprised within the area ordinarily subject to its control ; and

(c) the total of the collection of such tax and toll made in the cantonment and in the area ordinarily subject to the control of such other local authority and the costs thereby incurred shall be divided between the cantonment fund and the fund subject to the control of such other local authority, in such proportion as may have been determined by the agreement.

#### *Control:*

46. The Governor General in Council or the Local Government may

Power of Government to require production of documents. at any time require a Cantonment Authority—

- (a) to produce any record, correspondence, plan or other document in its possession or under its control ;
- (b) to furnish any return, plan, estimate, statement, account or statistics relating to its proceedings, duties or works ;
- (c) to furnish or obtain and furnish any report.

47. The Officer Commanding the District may depute any person in the service of the Government to inspect or examine any department of the office of, or any service or work undertaken by, or thing belonging to, a Cantonment Authority, and to report thereon, and the Cantonment Authority and its officers and servants shall be bound to afford the person so deputed access at all reasonable times to the premises and property of the Cantonment Authority and to all records, accounts and other documents the inspection of which he may consider necessary to enable him to discharge his duties.

Powers of Officer Commanding the District.

48. The Officer Commanding the District may, by order in writing,—

- (a) call for any book or document in the possession or under the control of the Cantonment Authority ;
- (b) require the Cantonment Authority to furnish such statements, accounts, reports and copies of documents relating to its proceedings, duties or works as he thinks fit.

49. If, on receipt of any information or report obtained under section 47 or section 48, the Officer Commanding the District is of opinion—  
Power to require execution of work, etc.

- (a) that any duty imposed on a Cantonment Authority by or under this Act has not been performed or has been performed in an imperfect, inefficient or unsuitable manner, or
- (b) that adequate financial provision has not been made for the performance of any such duty ;

he may, with the concurrence of the Officer Commanding-in-Chief, the Command, and of the Local Government, direct the Cantonment Authority, within such period as he thinks fit, to make arrangements to his satisfaction for proper performance of the duty, or, as the case may be, to make financial provision to his satisfaction for the performance of the duty :

Provided that, unless in the opinion of the Officer Commanding the District, the immediate execution of such order is necessary, he shall, before making any direction under this section, give the Cantonment Authority an opportunity of showing cause why such direction should not be made.

50. If, within the period fixed by a direction made under section 49, any action the taking of which has been directed under that section has not been duly taken, the Officer Commanding the District may make arrangements for the taking of such action, and may direct that all expenses connected therewith shall be defrayed out of the cantonment fund.

Power to provide for enforcement of direction under section 49.

51. (1) If the President dissents from any decision of the Board, which he considers prejudicial to the health, welfare or discipline of the troops in the cantonment, he may, for reasons to be recorded in the minutes, by order in writing, direct the suspension of action thereon for any period not exceeding one month and, if he does so, shall forthwith refer the matter to the Officer Commanding-in-Chief, the Command, through the Officer Commanding the District, who may make such recommendations thereon as he thinks fit.

(2) If the District Magistrate considers any decision of a Cantonment Authority to be prejudicial to the public health, safety or convenience, he may, after giving notice in writing of his intention the Cantonment Authority, refer the matter to the Local Government ; and, pending the disposal of the reference to the Local Government, no action shall be taken on the decision.

(2) If any Magistrate who is a member of a Board, being present at a meeting, dissents from any decision which he considers prejudicial to the public health, safety or convenience, he may, for reasons to be recorded in the minutes and after giving notice in writing of his intention to the President, report the matter to the District Magistrate ; and the President shall, on receipt of such notice, direct the suspension of action on the decision for a period sufficient to allow of a communication being made to the District Magistrate and of his taking proceedings as provided by sub-section (2).

52. (1) The Officer Commanding-in-Chief, the Command, may at any time on a recommendation made to him in this behalf by the Officer Commanding the District—  
Power of Officer Commanding-in-Chief, the Command, on reference under section 51 or otherwise.

(a) direct that any matter or any specific proposal other than one which has been referred to the Local Government under sub-section (2) of section 51 be considered or re-considered by the Cantonment Authority ; or

(b) direct the suspension, for such period as may be stated in the order, of action on any decision of a Cantonment Authority, other than a decision which has been referred to him under sub-section (1) of section 51, and thereafter cancel the suspension or direct that the decision shall not be carried into effect or that it shall be carried into effect with such modifications as he may specify.

(2) When any decision of a Board has been referred to him under sub-section (1) of section 51, the Officer Commanding-in-Chief, the Command, may, by order in writing,—

(a) cancel the order given by the President directing the suspension of action ; or

(b) extend the duration of the order for such period as he thinks fit ; or

(c) direct that the decision be carried into effect by the Board with such modifications as he may specify.

53. When any decision of a Cantonment Authority has been referred to the Local Government under sub-section (2) of section 51, the Local Government may, after consulting the Officer Commanding-in-Chief, the Command, by order in writing,—

Powers of Local Government on a reference made under section 51.

(a) direct that no action be taken on the decision ; or

(b) direct that the decision be carried into effect either without modification or with such modifications as it may specify.

54. (1) If, in the opinion of the Local Government, any Board is not competent to perform or persistently makes default in the performance of the duties imposed on it by or under this Act or otherwise by law, or exceeds or abuses its powers, the Local Government may, with the previous sanction of the Governor General in Council, by an order published, together with the statement of the reasons therefor, in the local official Gazette, declare the Board to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and supersede it for such period as may be specified in the order :

Supersession of Board.

Provided that no Board shall be superseded unless a reasonable opportunity has been given to it to show cause against the supersession.

(2) When a Board is superseded by an order under sub-section (1)—

(a) all members of the Board shall, on such date as may be specified in the order, vacate their offices as such members but without prejudice to their eligibility for election or nomination under clause (c) ;

(b) during the supersession of the Board, all powers and duties conferred and imposed upon the Board by or under this Act or otherwise by law shall be exercised and performed by the Commanding Officer of the cantonment subject to such reservation, if any, as the Local Government may prescribe in this behalf ; and

(c) before the expiry of the period of supersession elections shall be held and nominations made for the purpose of reconstituting the Board.

### *Validity of Proceedings.*

55. (1) No act or proceeding of a Board or of any committee of a Board shall be invalid by reason only of the existence of a vacancy in the Board or committee.

Validity of proceedings, etc.

(2) No disqualification or defect in the election, nomination or appointment of a person acting as the President or a member of a Board or of any such committee shall vitiate any act or proceeding of the Board or committee if the majority of the persons present at the time of the act being done or the proceeding being taken were duly qualified members thereof.



(3) Any document or minutes which purport to be the record of the proceedings of a Board or of any committee of a Board shall, if made and signed substantially in the manner prescribed for the making and signing of the record of such proceedings, be presumed to be a correct record of the proceedings of a duly convened meeting, held by a duly constituted Board or committee, as the case may be, whereof all the members were duly qualified.

## CHAPTER IV.

### SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

56. If within a cantonment, or within such limits adjoining a cantonment as the Local Government may, by notification in the local official Gazette, define, any person not subject to military or air force law or any person subject to military or air force law otherwise than as a military officer or a soldier knowingly barter, sells or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor or intoxicating drug to or for the use of any soldier or follower or soldier's wife or minor child without the written permission of the Commanding Officer of the cantonment or of some person authorised by the Commanding Officer of the cantonment to grant such permission, he shall be punishable with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

57. If within a cantonment, or within any limits defined under section 56,—

(a) any person subject to military or air-force law otherwise than as a military officer or a soldier, or

(b) the wife or servant of any such person or of a soldier,

has in his or her possession, except on behalf of the Government or for the private use of a military officer more than one quart of any spirituous liquor, other than fermented malt-liquor, without the written permission of the Commanding Officer of the cantonment or of some person authorised by the Commanding Officer of the cantonment to grant such permission, he or she shall be punishable, in the case of a first offence, with fine which may extend to fifty rupees, and, in the case of a subsequent offence, with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees.

58. (1) Any police officer or excise officer may, without an order from a Magistrate and without a warrant, arrest any person whom he finds committing an offence under section 56 or section 57, and may seize and detain any spirituous liquor or intoxicating drug in respect of which such an offence has been committed and any vessels or coverings in which the liquor or drug is contained.

(2) Where a person accused of an offence under section 56 has been previously convicted of an offence under that section, an officer in charge of a police station may, with the written permission of a Magistrate, seize and detain any spirituous liquor or intoxicating drug within the cantonment or within any limits defined under that section which, at the time of the alleged commission of the subsequent offence, belonged to, or was in the possession of such person.

(3) The Court convicting a person of an offence under section 56 or section 57 may order the confiscation of the whole or any part of anything seized under sub-section (1) or sub-section (2).

(4) Subject to the provisions of Chapter XLIII of the Code of Criminal Procedure, 1898,\* anything seized under sub-section (1) or sub-section (2) and not confiscated under sub-section (3) shall be restored to the person from whom it was taken.

59. The foregoing provisions of the Chapter shall not apply to the sale or supply of any article in good faith for medicinal purposes by a medical practitioner, chemist or druggist authorised in this behalf by a general or special order of the Commanding Officer of the cantonment.

Saving of articles sold or supplied for medicinal purposes.

## CHAPTER V.

### TAXATION.

#### *Imposition of Taxation.*

60. The Local Government may, by notification in the local official Gazette, impose in any cantonment any tax which, under any enactment in force on the date of the notification, may be imposed in any municipality within the province.

General power of Taxation.

61. (1) When the Local Government proposes to impose any tax under section 60, it shall by notification in the local official Gazette, and in such other manner as is in its opinion best suited for the purpose, give notice of its intention.

Framing of preliminary proposals.

(2) Every notification issued under sub-section (1) shall specify—

- (a) the tax which it is proposed to impose ;
- (b) the persons or classes of persons to be made liable and the description of the property or other taxable thing or circumstance in respect of which they are to be made liable ; and
- (c) the rate at which the tax is to be levied.

62. Any inhabitant of the cantonment may, within thirty days from the date of the notification under section 61, submit to the Local Government an objection in writing to all or any of the proposals framed therein and the Local Government shall take any objection so submitted into consideration.

63. After the expiry of thirty days from the date of the notification and after considering all objections submitted thereto under section 62, the Local Government may impose the tax either in the original form or, if any such objection has been so submitted, in that form or in such modified form as it thinks fit.

64. For the purposes of this Chapter, "annual value" means—

(a) in the case of railway stations, hotels, colleges, schools hospitals factories and any other buildings which a Cantonment Authority decides to assess under this clause, one-twentieth of the sum obtained by adding the estimated present cost of erecting the building to the estimated value of the land appertaining thereto, and

(b) in the case of a building or land not assessed under clause (a), the gross annual rent for which such building (exclusive of furniture or machinery therein) or such land is actually let or where the building or land is not let or in the opinion of the Cantonment Authority is let for a sum less than its fair letting value, might reasonable be expected to let from year to year:

Provided that, where the annual value of any building is, by reason of exceptional circumstances, in the opinion of the Cantonment Authority, excessive if calculated in the aforesaid manner, the Cantonment Authority may fix the annual value at any less amount which appears to it to be just.

65. (1) Save as otherwise expressly provided in the notification imposing the tax, every tax on the annual value of buildings or lands or of the both shall be leviable primarily upon the actual occupier of the property upon which the said tax is assessed, if he is the owner of the buildings or lands or holds them on a building or other lease from the Secretary of State in Council or from the Cantonment Authority or on a building lease from any person.

(2) In any other case, the tax shall be primarily leviable as follows, namely :—

(a) if the property is let, upon the lessor ;

(b) if the property is sub-let, upon the superior lessee ;

(c) if the property is unlet, upon the person in whom the right to let the same vests.

(3) On failure to recover any sum due on account of such tax from the person primarily liable, there may be recovered from the occupier of any part of the buildings or lands in respect of which the tax is due such portion of the sum due as bears to the whole amount due the same ratio

which the rent annually payable by such occupier bears to the aggregate amount of rent so payable in respect of the whole of the said buildings or lands, or to the aggregate amount of the letting value thereof, if any stated in the authenticated assessment list.

(4) An occupier who makes any payment for which he is not primarily liable under this section shall, in the absence of any contract to the contrary, be entitled to be reimbursed by the person primarily liable for the payment, and, if so entitled, may deduct the amount so paid from the amount of any rent from time to time becoming due from him to such person.

#### *Assessment List.*

66. When a tax on the annual value of building or lands or both is imposed, the Cantonment Authority shall cause an Assessment list of all buildings or lands in the the cantonment, or of both, as the case may be, to be prepared in such from as the Local Government may by rule prescribe.

67. When the assessment list has been prepared, the Cantonment Authority shall give public notice thereof and of the place where the list or a copy thereof may be inspected, and every person claiming to be the owner, lessee or occupier of any property included in the list, and any authorised agent of such person, shall be at liberty to inspect the list and to make extracts therefrom free of charge.

68. (1) The Cantonment Authority shall, at the same time, give public notice of a date, not less than one month thereafter, when it will proceed to consider the valuations and assessments entered in the assessment list, and, in all cases in which any property is for the first time assessed or the assessment is increased, it shall also give written notice thereof to the owner and to any lessee or occupier of the property.

(2) Any objection to a valuation or assessment shall be made in writing to the Cantonment Authority before the date fixed in the notice, and shall state in what respect the valuation or assessment is disputed, and all objections so made shall be recorded in a register to kept for the purpose by the Cantonment Authority.

(3) The objections shall be inquired into and investigated, and the persons making them shall be allowed an opportunity of being heard either in person or by authorised agent, by an Assessment Committee appointed by the Cantonment Authority.

(4) The Assessment Committee shall consist of not less than three persons, and, where there is a Board, it shall not be necessary to appoint to the Assessment Committee any member thereof.

69 (1) When all objections made under section 68 have been disposed of, and the revision of the valuation and assessment has been completed, the assessment list shall be authenticated by the signature of the members of the Assessment Committee who shall, at the the same time,

certify that they have considered all objections duly made and have amended the list so far as is required by their decisions on such objections.

(2) The assessment list so authenticated shall be deposited in the office of the Cantonment Authority, and shall there be open, free of charge during office hours to all owners, lessees and occupiers of property comprised therein or the authorised agents of such persons, and a public notice that it is so open shall forthwith be published.

70. Subject to such alterations as may thereafter be made in the assessment list under the provisions of this Chapter and to the result of any appeal made thereunder, the entries in the assessment list authenticated and deposited as provided in section 69 shall be accepted as conclusive evidence —

(i) for the purpose of assessing any tax imposed under this Act of the annual value or other valuation of all buildings and lands to which such entries respectively refer, and

(ii) for the purposes of any tax imposed on buildings or lands of the amount of each tax leviable thereon during the year to which such list relates.

71. (1) The Cantonment Authority may, at any time, amend the assessment list by inserting the name of any person whose name ought to have been or ought to be inserted, or by inserting any property which ought to have been or ought to be inserted, or by altering the assessment on any property which has been erroneously valued or assessed through fraud, accident or mistake, whether on the part of the Cantonment Authority or of the Assessment Committee or of the assessee, or, in the case of a tax payable by an occupier, by a change in the tenancy, after giving notice to any person affected by the amendment of a time, not less than one month from the date of service, at which the amendment is to be made :

Provided that no person shall by reason of any such amendment become liable to pay any tax or increase of tax in respect of any period prior to the commencement of the financial year in which the amendment is made.

(2) Any person interested in any such amendment may tender an objection to the Cantonment Authority in writing before the time fixed in the notice, and shall be allowed an opportunity of being heard in support of the same in person or by authorised agent.

72. The Cantonment Authority shall prepare a new assessment list at least once in every three years, and for this purpose the provisions of sections 66 to 71 shall apply in like manner as they apply for the purpose of the preparation of an assessment list for the first time.

73. (1) Whenever the title of any, person primarily liable for the payment of a tax on the annual value of any building or land to or over such building or land is transferred, the person whose title is transferred and the person to whom the

same is transferred shall, within three months after the execution of the instrument of transfer or after its registration, if it is registered, or after the transfer is effected if no instrument is executed, give notice of such transfer to the Executive Officer.

(2) In the event of the death of any person primarily liable as aforesaid, the person on whom the title of the deceased devolves shall give notice of such devolution to the Executive Officer within six months from the death of the deceased.

(3) The notice to be given under this section shall be in such form as the executive Officer may direct, and the transferee or other person on whom the title devolves shall, if required, be bound to produce before the executive Officer any documents evidencing the transfer or devolution.

(4) Every person who makes a transfer as aforesaid without giving such notice to the Executive Officer shall continue liable for the payment of all taxes assessed on the property transferred until he gives notice or until the transfer has been recorded in the registers of the Cantonment Authority, but nothing in this section shall be held to affect the liability of the transferee for the payment of the said tax.

74. (1) If any building is erected or re-erected within the meaning of section 179, the owner shall give notice thereof to the Executive Officer within thirty days from the date of its completion or occupation, whichever is earlier.

Notice of erection of buildings.

(2) Any person failing to give the notice required by sub-section (1) shall be punishable with fine which may extend to fifty rupees or ten times the amount of the tax payable on the said building, as erected or re-erected, as the case may be, in respect of a period of three months, whichever is greater.

#### *Remission and Refund.*

75. If any building is wholly or partly demolished or destroyed or otherwise deprived of value, the Cantonment Authority may, on the application of the owner, remit or refund such portion of the tax payable thereon as it thinks fit.

Demolition, etc., of buildings.

76. In a cantonment other than a hill cantonment, when any building or land has remained vacant and unproductive of rent for ninety or more consecutive days during any year, the Cantonment Authority shall remit or refund, as the case may be, such portion of the tax payable thereon in respect of that year as may be proportionate to the number of days during which the said building or land has remained vacant and unproductive of rent.

Remission of tax.

77. For the purpose of obtaining a partial remission or refund of tax, the owner of a building composed of separate tenements may request the Cantonment Authority at the time of assessment of the building to enter in the assessment list, in addition to the annual value of the whole building, a note recording in detail the annual value of each separate tenement. When any tenement, the annual value of which has been thus

Power to require entry in assessment list of details of building.

separately recorded, has remained vacant and unproductive of rent for ninety or more consecutive days during any year, such portion of the tax payable in respect of that year on the whole building shall be remitted or refunded as would have been remitted or refunded if the tenement had been separately assessed :

Provided that no such remission shall be made unless notice in writing of the circumstances in which it is claimed has been given to the Cantonment Authority, and no remission or refund shall take effect in respect of any period commencing more than fifteen days before the delivery of such notice.

78. (1) For the purposes of sections 76 and 77 no building, tenement of land shall be deemed vacant if maintained as a pleasure resort or town or country house, or be deemed unproductive of rent if let to a tenant who has a continuing right of occupation thereof, whether he is in actual occupation or not.

(2) The burden of proving all facts entitling any person to claim relief under section 75, or section 76, or section 77, shall be upon him.

79. (1) The owner of any building, tenement or land in respect of which a remission or refund of tax has been given under section 76 or section 77 shall give notice of the re-occupation of such building or land within fifteen days of such re-occupation.

(2) Any owner failing to give the notice required by sub-section (1) shall be punishable with fine which shall not be less than twice the amount of the tax payable on such building, tenement or land in respect of the period during which it has been re-occupied and which may extend to fifty rupees, or to ten times the amount of the said tax, whichever sum is greater.

### *Charge on Immoveable Property.*

80. A tax assessed on the annual value of any building or land shall, subject to the prior payment of the land-revenue, if any due to the Government thereon, be a first charge upon the building or land.

### *Octroi, Terminal Tax and Toll.*

81. Every person bringing or receiving any goods, vehicles or animals within the limits of any cantonment in which octroi or terminal tax or toll is leviable shall, when so required by an officer duly authorised by the Cantonment Authority in this behalf, so far as may be necessary for ascertaining the amount of tax chargeable—

(a) permit that officer to inspect examine or weigh such goods, vehicles or animals ; and

(b) communicate to that officer any information, and exhibit to him any bill, invoice or document of a like nature, which such person may possess relating to goods, vehicles or animals.

82. (1) Any person who takes or attempts to take past any octroi station or any other place appointed within a cantonment for the collection of octroi, terminal tax or toll any goods, vehicles or animals, on account of which octroi, terminal tax or toll is leviable and thereby evades, or attempts, to evade, the payment of such octroi, terminal tax or toll, and any person who abets any such evasion or attempt at evasion, shall be punishable with fine which may extend either to ten times the value of such octroi, terminal tax or toll, or to fifty rupees, whichever is greater, and which shall not be less than twice the value of such octroi, terminal tax or toll, as the case may be.

(2) In case of non-payment of any octroi or terminal tax or toll on demand or officer empowered to collect the same may seize any goods, vehicles the animals on which the octroi, terminal tax or toll is chargeable or any part or number thereof which is of sufficient value to satisfy the demand.

(3) The Cantonment Authority, after the lapse of five days from the seizure, and after the issue of a notice in writing to the person in whose possession the goods, vehicles or animals were at the time of seizure, fixing the time and place of sale, may cause the property so seized, or so much thereof as may be necessary, to be sold by auction to satisfy the demand and any expenses occasioned by the seizure, custody and sale thereof, unless the demand and expenses are in the meantime paid.

Provided that the Execution Officer may, in any case, order that any article of a perishable nature which cannot be kept for five days without serious risk of damage, or which cannot be kept save at a cost which, together with the amount of octroi, terminal tax or toll is likely to exceed its value, shall be sold after the lapse of such shorter time as he may, having regard to the nature of the article, think proper.

(4) If at any time before the sale has begun, the person whose property has been seized tenders to the Executive Officer the amount of all expenses incurred and of the octroi, terminal tax or toll, the Executive Officer shall release the property seized.

(5) The surplus, if any, of the sale-proceeds shall be credited to the cantonment fund, and shall, on application made to the Cantonment Authority within one year after the sale, be paid to the person in whose possession the property was at the time of seizure, and, if no such application is made, shall be the property of the Cantonment Authority.

83 It shall be lawful for the Cantonment Authority, with the previous sanction of the Officer Commanding the District, to lease the collection of any octroi, terminal tax or toll for any period not exceeding one year ; and the lessee and all persons employed by him in the management and collection of the octroi, terminal tax or toll shall, in respect thereof—

(a) be bound by any orders made by the Cantonment Authority for their guidance ;

(b) have such power exerciseable by officers or servants of the Cantonment Authority under this Act as the Cantonment Authority may confer upon them ; and



- (c) be entitled to the same remedies and be subject to the same responsibilities as if they were employed by the Cantonment Authority for the management and collection of the octroi, terminal tax or toll, as the case may be :

Provided that no article distrained may be sold except under the orders of the Cantonment Authority.

### *Appeals.*

84. (1) An appeal against the assessment or levy of, or against the refusal to refund, any tax under this Act shall lie to the District Magistrate or to such other officer as may be empowered by the Local Government in this behalf :

Appeals against assess-  
ment.

Provided that, where there is a Board and the person to whom the appeal would ordinarily lie is, or was when the tax was imposed, a member of the Board, the appeal shall lie to the Commissioner of the Division, or, in a province where there are no Commissioners, to the District Judge.

(2) If, on the hearing of an appeal under this section, any question as to the liability to, or the principle of assessment of, a tax arises on which the officer hearing the appeal entertains reasonable doubt, he may, either of his own motion or on the application of the appellant, draw up a statement of facts of the case and the point on which doubt is entertained, and refer the statement with his own opinion on the point for the decision of the High Court.

(3) On a reference being made under sub-section (2), the subsequent proceedings in the case shall be, as nearly as may be in conformity with the rules relating to references to the High Court contained in Order XLVI of the First Schedule to the Code of Civil Procedure, 1908.\*

85. In every appeal the costs shall be in the discretion of the officer hearing the appeal.

86. If the Cantonment Authority fails to pay any costs awarded to an appellant within ten days after the date of the order for payment thereof the officer awarding the costs may order the person having the custody of the balance of the cantonment fund to pay the amount.

87. No appeal shall be heard or determined under this Chapter unless—  
Condition of right to  
appeal.

- (a) the appeal is in the case of a tax assessed on the annul value of buildings or lands or both, brought within thirty days next after the date of the authentication of the assessment list under section 69 (exclusive of the time requisite for obtaining a copy of the relevant entries therein), or as the case may be, within thirty days of the date on which an amendment is

finally made under section 71, and, in the case of any other tax, within thirty days next after the date of the receipt of the notice of assessment or of alteration of assessment or, if no notice has been given, within thirty days next after the date of the presentation of the first bill in respect thereof :

Provided that an appeal may be admitted after the expiration of the period prescribed therefor by this section if the appellant satisfies the Court before whom the appeal is preferred that he had sufficient cause for not preferring it within that period ;

(b) the amount, if any, in dispute in the appeal has been deposited by the appellant in the office of the Cantonment Authority.

88. The order of an appellate authority confirming, setting aside or modifying an order in respect of any valuation or assessment or liability to assessment or taxation shall be final :

Finality of appellate orders.

Provided that it shall be lawful for the appellate authority, upon application or on its own motion, to review any order passed by it in appeal if application in this behalf is made within three months from the date of the original order.

#### *Payment and Recovery of Taxes.*

89. Save as otherwise expressly provided under this Act, any tax imposed under the provisions of this Act shall be payable on such dates and in such instalments, if any, as the Cantonment Authority may, by public notice, direct.

Time and manner of payment of taxes.

90. (1) When any tax has become due, the Executive Officer shall cause to be presented to the person liable for the payment thereof a bill for the amount due.

Presentation of bill.

(2) Every such bill shall specify the particulars of the tax and the period for which the charge is made.

91. (1) If the amount of the tax for which any bill has been presented is not paid to the Cantonment Authority within thirty days from the presentation thereof the Executive Officer may cause to be served upon the person liable for the payment of the same a notice of demand in the form set forth in Schedule I.

Notice of demand.

(2) For every notice of demand which the Executive Officer causes to be served on any person under this section, a fee of such amount, not exceeding one rupee, as shall in each case be fixed by the Executive Officer, shall be payable by the said person and shall be included in the costs of recovery.

92 (1) If the person liable for the payment of any tax does not, within thirty days from the service of the notice of demand, pay the amount due, or show sufficient cause for non-payment of the same to the satisfaction of the Exe-

Recovery of tax.

cutive Officer such sum, with all costs of recovery, may be recovered under a warrant, issued in the form set forth in Schedule II, by distress and sale of the moveable property of the defaulter ;

Provided that the Executive Officer shall not recover any sum the liability for which has been remitted on appeal under this Chapter.

(2) Every warrant issued under this section shall be signed by the Executive Officer.

93. (1) It shall be lawful for any servant of the Cantonment Authority to whom a warrant issued under section 92 is addressed to distrain, wherever it may be found any moveable property of the person therein named as defaulter, subject to the following conditions, exceptions and exemptions, namely :—

(a) the following property shall not be distrained :—

(i) the necessary wearing apparel and bedding of the defaulter, his wife and children.

(ii) tools of artisans,

(iii) books of account, or

(iv) when the defaulter is an agriculturist his implements of husbandry, seedgrain, and such cattle as may be necessary to enable the defaulter to earn his livelihood ;

(b) the distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant, and if any property has been distrained which, in the opinion of the Executive Officer, should not have been distrained, it shall forthwith be returned.

(2) The person charged with the execution of a warrant of distress shall forthwith make an inventory of the property which he seizes under such warrant, and shall, at the same time, give a written notice in the form set forth in Schedule III to the person in possession thereof at the time of seizure that the said property will be sold as therein mentioned.

94. (1) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody is, when added to the amount to be recovered, likely to exceed its value, the Executive Officer shall give notice to the person in whose possession the property was at the time of seizure that it will be sold at once, and shall sell it accordingly by public auction unless the amount mentioned in the warrant is forthwith paid.

(2) If the warrant is not in the meantime suspended by the Executive Officer, or discharged, the property seized shall, after the expiry of the period named in the notice served under sub-section 93, be sold by public auction by order of the Executive Officer.

(3) The surplus of the sale-proceeds, if any, shall forthwith be credited to the cantonment fund, and notice of such credit shall be given at the same time to the person from whose possession the property was taken, and, if the same is claimed by written application to the Cantonment Authority within one year from the date of the notice, a refund thereof shall be made to such person. Any surplus not claimed within one year as aforesaid shall be the property of the cantonment Authority.

(4) For every distraint made under this Chapter a fee of such amount, not exceeding one rupee, as shall in each case be fixed by the Executive Officer shall be charged, and the said fee shall be included in the costs of recovery.

95. (1) If the Executive Officer has reason to believe that any person from whom any sum is due on account of any tax is about to remove from the cantonment, he may direct the immediate payment by such person of the sum so due or about to become due, and cause a bill for the same to be served on such person.

(2) If, on the service of such bill, such person does not forthwith pay the sum so due or about to become due, the amount shall be leviable by distress and sale in the manner hereinbefore provided in this Chapter, except that it shall not be necessary to serve upon the defaulter any notice of demand and the warrant for distress and sale may be issued and executed without any delay.

96. Instead of proceeding against a defaulter by distress and sale as hereinbefore provided in this Chapter, or after a defaulter has been so proceeded against unsuccessfully or with only partial success, any sum due or the balance of any sum due, as the case may be, from such defaulter on account of a tax may be recovered from him by a suit in any Court of competent jurisdiction.

#### *Special Provisions relating to Taxation.*

97. Every Cantonment Authority shall be deemed to be a Municipal Committee for the purposes of the Municipal Taxation Act, 1881.\*

98. A Cantonment Authority may make special provision for the cleansing of any factory, hotel, club or group of buildings or lands used for any one purpose and under one management, and may fix a special rate and the dates and other conditions for periodical payment thereof, which shall be determined by a written agreement with the person liable for the payment of the conservancy or scavenging tax in respect of such factory, hotel, club or group of buildings or lands:

Provided that, in fixing the amount proper regard shall be had to the

probable cost to the Cantonment Authority of the service to be rendered.

99. (1) When, in pursuance of section 98, a Cantonment Authority has fixed a special rate for the cleansing of any factory, hotel, club or group of buildings or lands, such premises shall be exempted from the payment of any conservancy or scavenging tax imposed in the cantonment.

(2) The following buildings and lands shall be exempt from any tax on property, namely :—

- (a) places set apart for public worship and either actually so used, or used for no other purpose ;
- (b) buildings used for educational purposes and public libraries play grounds and dharmshalas which are open to the public and from which no income is derived ;
- (c) hospitals and dispensaries maintained wholly by charitable contributions ;
- (d) burning and burial grounds, not being the property of Government or a Cantonment Authority, which are controlled under the provisions of this Act ;
- (e) buildings or lands vested in a Cantonment Authority ; and
- (f) any building or lands, used or acquired for the public service or for any public purpose, which are the property of or in the occupation of, the Government.

100. A Cantonment Authority may exempt, for a period not exceeding one year at a time from the payment of any tax or any portion of a tax imposed under this Act any person who is in its opinion by reason of poverty unable to pay the same.

101. (1) Cantonment Authority may, with the previous sanction of the Officer Commanding the District allow any person to compound for any tax.

(2) Every sum due by reason of the composition of a tax under subsection (1) shall be recoverable as if it were a tax.

102. A Cantonment Authority may write-off any sum due on account of any tax or of the costs of recovering any tax if such sum is in its opinion, irrecoverable.

103. (1) The Executive Officer may, by written notice, call upon any inhabitant of the cantonment to furnish such information as may be necessary for the purpose of ascertaining—

- (a) whether such inhabitant is liable to pay any tax imposed under this Act ;
- (b) at what amount he should be assessed ; or

(c) the annual value of the building or land which occupies and the name and address of the owner or lessee thereof.

(2) If any person, when called upon under sub-section (1) to furnish information, neglects to furnish it or furnishes information which is not true to the best of his knowledge or belief he shall be punishable with fine which may extend to one hundred rupees.

104. No assessment and no charge or demand on account of any tax or fee shall be impeached or affected by reason of any mistake in the name of any person liable to pay such tax or fee or in the description of any property or thing or any mistake in the amount of the assessment charge or demand if the directions contained in this Act and the rules and bye-laws made thereunder have in substance and effect been complied with ; but any person who sustains any special damage by reason of any such mistake shall be entitled to recover compensation for the same by suit in a Court of competent jurisdiction.

105. No distress levied under this Chapter shall be deemed unlawful nor shall any person making the same be deemed a trespasser on account only of any defect of form in the notice of demand warrant of distress or other proceeding relating thereto : Distraint not to be invalid by reason of immaterial defect. nor shall any such person be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him ; but any person who sustains any special damage by reason of any such irregularity shall be entitled to recover compensation for the same by suit in a Court of competent jurisdiction.

## CHAPTER VI.

### CANTONMENT FUND AND PROPERTY.

#### *Cantonment Fund.*

106. There shall be formed for every cantonment a cantonment fund and there shall be placed to the credit thereof the following sums, namely :—

- (a) the balance, if any of the cantonment fund formed for the cantonment under the Cantonments Act, 1910 ;
- (b) all sums received by or on behalf of the Cantonment Authority, and
- (c) subject to any deductions made under section 545 of the Code of Criminal Procedure, 1898, or under any other law for the time being in force, or under any order of the Local Government, all fines recovered from persons convicted of offences committed within the cantonment—
- (i) under this Act or any rule or bye-law made thereunder, or

- (ii) under section 34 of the Police Act, 1861,\* or under any corresponding enactment for the time being in force, or
- (iii) under Chapter XIII or Chapter XIV of the Indian Penal Code,† or
- (iv) under section 156 of the Army Act,‡ or
- (v) under the provisions of any enactment wherein or whereunder provision is made for a fine being credited to the cantonment fund, or
- (vi) under any other enactment for the time being in force in respect of which the Governor General in Council may, by general or special order direct that fines realised thereunder shall be credited to the cantonment fund.

107. (1) Where in or near a cantonment there is a Government treasury or sub-treasury, or a branch of the Imperial Bank of India, the cantonment fund shall be kept in such treasury, sub-treasury or bank, as the case may be.

(2) Where there is no such treasury, sub-treasury or bank, the cantonment fund may be deposited with any bank to which the Government treasury business has been entrusted, and, in the absence of such a bank with any banker or person acting as a banker who has given such security for the safe custody of the fund and the payment on demand of the funds so deposited as the Local Government may in each case direct.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), a Cantonment Authority may with the previous sanction of the Local Government, place in fixed deposit with the Imperial Bank of India any surplus funds in its hands which may not be required for immediate use, or may invest the same in securities of the Government of India or a Local Government or in such other securities as the Local Government may approve in this behalf and may vary such investments for others of a like nature, and may dispose of such securities as may be necessary.

(4) The income resulting from any fixed deposit or from any fixed deposit or from any such security as is referred to in sub-section (3) or from the proceeds of the sale of any such security shall be credited to the cantonment fund.

#### *Property.*

108. Subject to any special reservation made by the Governor General in Council or the Local Government, all property of the nature hereinafter in this section specified which has been acquired or provided or is maintained by a Cantonment Authority shall vest in and belong to that Cantonment Authority and shall be under its direction, management and control, that is to say,—

- (a) all markets, slaughter-houses, manure and nightsoil depots, and buildings of every description ;

\* V of 1861.

† XLV of 1860.

- (b) all water-works for the supply, storage or distribution of water for public purposes, and all bridges, buildings engines materials, and things connected therewith or appertaining thereto;
- (c) all sewers, drains, culverts and water-courses, and all works, materials and things appertaining thereto;
- (d) all dust, dirt, dung, ashes, refuse, animal matter, filth and rubbish of every kind, and dead bodies of animals collected by the Cantonment Authority from the streets, houses, privies, sewers, cesspools or elsewhere, or deposited in places appointed by the Cantonment Authority for such purpose;
- (e) all lamps and lamp-posts and apparatus connected therewith or appertaining thereto;
- (f) all land or other property transferred to the Cantonment Authority by His Majesty, or by gift, purchase or otherwise for local public purposes; and
- (g) all streets and the pavements stones and other materials thereof and also all trees, erections, materials, implements, and things existing on or appertaining to streets.

109. The cantonment fund and all property vested in a Cantonment Authority shall be applied for the purposes, whether express or implied for which, by or under this Act or any other law for the time being in force, powers are conferred or duties or obligations are imposed upon the Cantonment Authority:

Provided that the Cantonment Authority shall not incur any expenditure for acquiring or renting land beyond the limits of the cantonments or for constructing any work beyond such limits except—

- (a) with the sanction of the Local Government, and
- (b) on such terms and conditions as the Local Government may impose;

Provided, further, that priority shall be given in the order hereinafter set forth to the following liabilities and obligations of a Cantonment Authority, that is to say,—

- (a) to the liabilities and obligations arising from a trust legally imposed upon or accepted by the Cantonment Authority;
- (b) to the repayment of, and the payment of interest on, any loan incurred under the provisions of the Local Authorities Loans Act, 1914\*;
- (c) to the payment of establishment charges;
- (d) to the payment of such expenses on account of pauper lunatics sent from the cantonment to public lunatic asylums and mental hospitals as the Local Government directs the Cantonment Authority to pay; and



- (e) to the payment of any sum the payment of which is expressly required by the provisions of this Act or any rule or bye-law made thereunder.

110. When there is any hindrance the permanent or temporary acquisition of immovable property upon payment of any land required by a Cantonment Authority for the purposes of this Act, the Local Government may, at the request of the Cantonment Authority proceed to acquire it under the provisions of the Land Acquisition Act, 1894 and, on payment by the Cantonment Authority of the compensation awarded under that Act and of the charges incurred by the Government in connection with the proceedings, the lands shall vest in the Cantonment Authority.

Power to make rules regarding cantonment fund and property.

111. The Governor General in Council may make rules consistent with this Act to provide for all or any of the following matters, namely :—

- (a) the conditions on which property may be acquired by Cantonment Authorities or on which property vested in a Cantonment Authority may be transferred by sale, mortgage, lease exchange or otherwise; and
- (b) any other matter relating to the cantonment fund or cantonment property in respect of which no provision or insufficient provision is made by or under this Act and provision is in the opinion of the Governor General in Council, necessary.

## CHAPTER VII.

### CONTRACTS.

112. Subject to the provisions of this Chapter every Cantonment Authority shall be competent to enter into and perform any contract necessary for the purposes of this Act.

Contracts by whom to be executed.

113. (1) Every contract—

Sanction.

- (a) for which budget provision does not exist, or
  - (b) which involves a value or amount exceeding one hundred rupees.
- shall require the sanction of the Cantonment Authority.

(2) Every contract other than a contract such as is referred to in sub-section (1) shall be sanctioned by the Cantonment Authority or by the Executive Officer on behalf of the Cantonment Authority.

114. (1) Every contract made by or on behalf of a Cantonment Authority, the value or amount of which exceeds fifty rupees, shall be in writing, and every such contract shall, where there is a Board, be signed by two members, of whom the President or Vice-President shall be one, and be countersigned by the Executive Officer and be sealed with the common seal of the Board, or, where there is no Board, be signed by the Commanding Officer of the cantonment and be sealed with the official seal of the Cantonment Authority :

Provided that, where there is a Board, the Executive Officer may in a case of urgency, with the previous sanction of the President of the Board, execute on behalf of the Board any contract the value or amount of which does not exceed two hundred rupees.

(2) Where an Executive Officer executes a contract on behalf of a Board under sub-section (1), he shall submit a report of his action and of the reasons therefor to the Board at its next meeting.

115. If any contract is executed by or on behalf of a Cantonment Authority otherwise than in conformity with the provisions of this Chapter, it shall not be binding on the Cantonment Authority.

## CHAPTER VIII.

### DUTIES AND DISCRETIONARY FUNCTIONS OF CANTONMENT AUTHORITIES.

116. It shall be the duty of every Cantonment Authority, so far as the funds at its disposal permit, to make reasonable provision within the cantonment for—

- (a) lighting streets and other public places ;
- (b) watering streets and other public places ;
- (c) cleansing streets, public places and drains, abating nuisances and removing noxious vegetation ;
- (d) regulating offensive, dangerous or obnoxious trades, callings and practices ;
- (e) removing, on the ground of public safety, health or convenience, undesirable obstructions and projections in streets and other public places ;
- (f) securing or removing dangerous buildings and places ;
- (g) acquiring, maintaining, changing and regulating places for the disposal of the dead ;
- (h) constructing, altering and maintaining streets, culverts, markets,

slaughter-houses, latrines, privies, urinals, drains, drainage works and sewerage works ;

- (i) planting and maintaining trees on roadsides and other public places ;
- (j) providing or arranging for a sufficient supply of pure and wholesome water, where such supply does not exist, guarding from pollution water used for human consumption, and preventing polluted water from being so used ;
- (k) registering births and deaths ;
- (l) establishing and maintaining a system of public vaccination ;
- (m) establishing and maintaining or supporting, public hospitals and dispensaries, and providing public medical relief ;
- (n) establishing and maintaining primary schools ;
- (o) rendering assistance in extinguishing fires, and protecting life and property when fires occur ;
- (p) maintaining and developing the value of property vested in, or entrusted to the management of, the Cantonment Authority ; and
- (q) fulfilling any other obligation imposed upon it by or under this Act or any other law for the time being in force.

117. A Cantonment Authority may, within the cantonment, make Discretionary functions of provision for—  
Cantonment Authority.

- (a) laying out in areas, whether previously built upon or not, new streets, and acquiring land for that purpose and for the construction of buildings, and compounds of buildings, to abut on such streets ;
- (b) constructing, establishing or maintaining public parks, gardens, offices, dairies, bathing or washing places, drinking fountains, tanks, wells and other works of public utility ;
- (c) reclaiming unhealthy localities ;
- (d) furthering educational objects by measures other than the establishment and maintenance of primary schools ;
- (e) taking a census and granting rewards for information which may tend to secure the correct registration of vital statistics ;
- (f) making a survey ;
- (g) giving relief on the occurrence of local epidemics by the establishment or maintenance of relief works or otherwise ;
- (h) securing or assisting to secure suitable places for the carrying on of any offensive, dangerous or obnoxious trade, calling or occupation ;
- (i) establishing and maintaining a farm or other place for the disposal of sewage ;

- (j) constructing, subsidising or guaranteeing tramways or other means of locomotion, and electric lighting or electric power works :
- (k) adopting any measure, other than a measure specified in section 116 or in the foregoing provisions of this section, likely to promote the safety, health or convenience of the inhabitants of the cantonment ; or
- (l) the doing of anything on which expenditure is declared by the Local Government, or by the Cantonment Authority, with the sanction of the Local Government, to be an appropriate charge on the cantonment fund.

## CHAPTER IX.

### PUBLIC SAFETY AND SUPPRESSION OF NUISANCES.

#### *General Nuisances.*

#### 118. (1) Whoever—

Penalty for causing nuisances.

- (a) in any street or other public place within a cantonment,—
- (i) is drunk and disorderly or drunk and incapable of taking care of himself ; or
- (ii) uses any threatening, abusive or insulting words, or behaves in a threatening or insulting manner, with intent to provoke a breach of the peace, or where by a breach of the peace is likely to be occasioned ; or
- (iii) exposes himself, or wilfully or indecently exposes his person ; or
- (iv) loiters, or begs importunately, for alms ; or
- (v) exposes or exhibits, with the object of exciting charity, any deformity or disease or any offensive sore or wound ; or
- (vi) carries meat exposed to public view ; or
- (vii) is found gaming ; or
- (viii) pickets animals, or collects carts ; or
- (ix) being engaged in the removal of nightsoil or other offensive matter or rubbish, wilfully or negligently permits any portion thereof to spill or fall, or neglects to sweep away or otherwise effectually to remove any portion thereof which may spill or fall in such street or place ; or
- (x) without proper authority affixes upon any building, monu-

ment, post, wall, fence, tree or other thing, any bill, notice or other document ; or

- (xi) without proper authority defaces or writes upon or otherwise marks any building, monument, post, wall, fence, tree or other thing ; or
- (xii) without proper authority removes, destroys, defaces or otherwise obliterates any notice or other document put up or exhibited under this Act ; or
- (xiii) without proper authority displaces, damages, or makes any alteration in, or otherwise interferes with, the pavement, gutter, stormwater-drain, flags or other materials of any such street, or any lamp, bracket, direction-post, hydrant or water-pipe maintained by the Cantonment Authority in any such street or public place, or extinguishes a public light ; or
- (xiv) carries any corpse not decently covered or without taking due precautions to prevent risk of infection or injury to the public health or annoyance to passers by or to persons dwelling in the neighbourhood ; or
- (xv) carries night-soil or other offensive matter or rubbish at any hour prohibited by the Cantonment Authority by public notice, or in any pattern of cart or receptacle which has not been approved for the purpose by the Cantonment Authority or fails to close such cart or receptacle when in use ; or
- (b) carries night-soil or other offensive matter or rubbish along any route in contravention of any prohibition made in this behalf by the Cantonment Authority by public notice ; or
- (c) deposits, or causes or permits to be deposited, earth or materials of any description, or any offensive matter or rubbish, in any place not intended for the purposes in any street or other public place or waste or unoccupied land under the management of the Cantonment Authority ; or
- (d) having charge of a corpse fails to bury, burn or otherwise lawfully dispose of the same within twenty-four hours after death ; or
- (e) makes any grave or buries or burns any corpse in any place not set apart for such purpose : or
- (f) keeps or uses, or knowingly permits to be kept or used, any place as a common gaming house, or assists in conducting the business of any common gaming house ; or
- (g) at any time or place at which the same has been prohibited by the Cantonment Authority by public or special notice, beats a drum or tom-tom, or blows a horn or trumpet, or beats any utensil, or sounds any brass or other instrument, or plays any music ; or
- (h) disturbs the public peace or order by singing, screaming or shouting ; or

- (i) lets loose any animal so as to cause, or negligently allows any animal to cause, injury, danger, alarm or annoyance to any person ; or
- (j) being the occupier of any building or land in or upon which an animal dies neglects within three hours of the death of the animal, or, if the death occurs at night, within three hours after sunrise, either —
- (k) to report the occurrence to the Executive Officer, or to an officer, if any, appointed by him in this behalf with a view to securing the removal and disposal of the carcase by the public conservancy establishment, or
- (ii) to remove and dispose of the carcase in accordance with any general directions given by the Cantonment Authority by public notice or any special directions given by the Executive Officer on receipt of such report as aforesaid ; or
- (l) save with the written permission of the Cantonment Authority and in such manner as it may authorise, stores or uses night-soil, manure, rubbish or any other substance emitting an offensive smell ; or
- (l) uses or permits to be used as a latrine any place not intended for that purpose ;

shall be punishable with fine which may extend to fifty rupees.

(2) Whoever does not take reasonable means to prevent any child under the age of twelve years being in his charge from easing himself in any street or other public place within the cantonment shall be punishable with fine which may extend to twenty-five rupees.

(3) The owner or keeper of any animal found picketed or straying without a keeper in a street or other public place in a cantonment shall be punishable with fine which may extend to twenty rupees.

(4) Any animal found picketed as aforesaid may be removed by any officer or servant of the Cantonment Authority or by any police officer to a pound as if the animal had been found straying.

#### *Dogs.*

119. (1) A Cantonment Authority may make bye-laws to provide for the registration of all dogs kept within the cantonment.

Registration and control of dogs.

(2) Such bye-laws shall —

- (a) require the registration, by the Officer Commanding each military unit, of all dogs kept in the lines occupied by that unit ;
- (b) require that every registered dog shall wear a collar to which shall be attached a metal token to be issued by the registration authority, and fix the fee payable for the issue thereof ;
- (c) require that any dog which has not been registered or which is not wearing such token shall, if found in any public place, be detained at a place set apart for the purpose ; and

- (d) fix the fee which shall be charged for such detention and provide that any such dog shall be liable to be destroyed or otherwise disposed of unless it is claimed and the fee in respect thereof is paid within one week ;

and may provide for such other matters as the Cantonment Authority thinks fit.

- (3) A Cantonment Authority may—

- (a) cause to be destroyed, or to be confined for such period as that Authority may direct, any dog or other animal which is, or is reasonably suspected to be, suffering from rabies, or which has been bitten by any dog or other animal suffering or suspected to be suffering—from rabies ;

- (b) by public notice direct that, after such date as may be specified in the notice, dogs which are without collars or without marks distinguishing them as private property and are found straying on the streets or beyond the enclosures of the houses of their owners, if any, may be destroyed, and cause them to be destroyed accordingly.

- (4) No damages shall be payable in respect of any dog or other animal destroyed or otherwise disposed of under this section.

- (5) Whoever, being the owner or person in charge of any dog, neglects to restrain it so that it shall not be at large in any street without being muzzled and without being secured by a chain lead in any case in which—

- (a) he knows that the dog is likely to annoy or intimidate any person, or

- (b) the Cantonment Authority has, by public notice during the prevalence of rabies, directed that dogs shall not be at large without muzzles and chain leads,

shall be punishable with fine which may extend to one hundred rupees.

- (6) Whoever in a cantonment—

- (a) allows any ferocious dog which belongs to him or is in his charge to be at large without being muzzled, or

- (b) sets on or urges any dog or other animal to attack, worry or intimidate any person, or

- (c) knowing or having reason to believe that any dog or animal belonging to him or in his charge has been bitten by an animal suffering or reasonably suspected to be suffering from rabies, neglects to give immediate information of the fact to the Executive Officer or gives information which is false,

shall be punishable with fine which may extend to two hundred rupees.

### *Traffic.*

Rule of the road.

120. Whoever in driving, leading or propelling a vehicle along a street fails, except in a case of actual necessity,—

- (a) to keep to the left when passing a vehicle coming from the opposite direction, or

(b) to keep to the right when passing a vehicle going in the same direction as himself,

shall be punishable with fine which may extend to fifty rupees.

*Prevention of Fire, etc.*

121. (1) A Cantonment Authority may, by public notice, direct that within such limits in the cantonment as may be specified in the notice, the roofs and external walls of huts or other buildings shall not, without the permission in writing of the Cantonment Authority, be made or renewed of grass, mats, leaves or other inflammable materials, and may, by notice in writing, require any person who has disobeyed any such direction as aforesaid to remove or alter the roofs or walls so made or renewed.

(2) A Cantonment Authority may, by notice in writing, require the owner of any building in the cantonment which has an external roof or wall made of any such material as aforesaid to remove such roof or wall within such time as may be specified in the notice, notwithstanding that a public notice under sub-section (1) has not been issued or that such roof or wall was made with the consent of the Cantonment Authority or before the issue of such public notice :

Provided that, in the case of any such roof or wall in existence before the issue of such public notice or made with the consent of the Cantonment Authority, that authority shall make compensation, not exceeding the original cost of constructing the roof or wall, for any damage caused by the removal.

122. A Cantonment Authority may, by public notice, prohibit in any case where such prohibition appears to it to be necessary for the prevention of danger to life or property, the stacking or collecting of wood, dry grass, straw or other inflammable materials or the placing of mats or teatched huts or the lighting of fires in any place in the cantonment, or within any limits therein, which may be specified in the notice.

123. No person shall set a naked light on or near any building in any street or other public place in a cantonment in such manner as to cause danger of fire :

Provided that nothing in this section shall be deemed to prohibit the use, subject to the permission in writing of the Cantonment Authority, of lights for purposes of illumination on the occasion of a festival or public or private entertainment.

124. (1) Notwithstanding anything contained in the Cinematograph Act, 1918,\* no exhibition of pictures or other optical effects by means of a cinematograph or other like apparatus for the purpose of which inflammable films are used, and no public dramatic performance or pantomime, shall be given in any cantonment



elsewhere than in premises for which a licence has been granted by the Cantonment Authority under this section.

(2) If the owner of a cinematograph or other apparatus or allows it to be used, or if any person takes any part in any public dramatic performance or pantomime, in contravention of the provisions of this section, or if the occupier of any premises allows them to be used in contravention of the provisions of this section or of any condition of any licence granted under this section, he shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing offence, with an additional fine which may extend to fifty rupees for each day after the first during which the offence continues.

(3) Nothing in this section shall be deemed to prohibit the giving of any exhibition or any dramatic performance or pantomime in any theatre or institute which is the property of Government where the exhibition, performance or pantomime is held with the permission and under the control of the military authorities.

125. Whoever in a cantonment discharges any fire-arm or lets off  
 Discharging fire-works, fire-works or fire-balloons, or engages in any game  
 fire-arms, etc. in such manner as to cause or to be likely to  
 cause danger to persons passing by or dwelling  
 or working in the neighbourhood or risk of injury to property shall be  
 liable to fine which may extend to fifty rupees.

126. Where in a cantonment any building, or wall, or any thing  
 affixed thereto, or any well, tank, reservoir, pool,  
 Power to require build- depression, or excavation, or any bank or tree,  
 ings, wells, etc., to be is, in the opinion of the Cantonment Authority,  
 rendered safe. for want of sufficient repairs, protection of en-  
 closure, dangerous to persons passing by or dwelling or working in the  
 neighbourhood, the Cantonment Authority may, by notice in writing,  
 require the owner thereof to repair, protect or enclose the same in such  
 manner as it thinks necessary ; and, if the danger is, in the opinion of the  
 Cantonment Authority, imminent, it shall forthwith take such steps as it  
 thinks necessary to avert the same.

127. A Cantonment Authority may, by notice in writing, require the  
 owner or part owner, or person claiming to be  
 Enclosure of waste land the owner or part owner, of any building or land  
 used for improper purposes. in the cantonment, or the lessee or the person  
 claiming to be the lessee of any such land, which, by reason of disuse or  
 disputed ownership or other cause, has remained unoccupied and has  
 become the resort of idle and disorderly persons or of persons who have  
 no ostensible means of subsistence or cannot give a satisfactory account  
 of themselves, or is used for gaming or immoral purposes, or otherwise  
 occasions or is likely to occasion a nuisance, to secure and enclose the  
 same within such time as may be specified in the notice.

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## CHAPTER. X.

## SANITATION AND THE PREVENTION AND TREATMENT OF DISEASE.

*Sanitary Authorities.*

128. The following officers shall, for the purposes of sanitation, have Responsibility for sani- control over, and be responsible for maintaining tation. in a sanitary condition, those parts of a cantonment, respectively, which are specified in the case of each, that is to say :—

- (a) the Commanding Officer of the cantonment—all buildings and lands which are occupied or used for military purposes ;
- (b) the Officer Commanding the air forces in the cantonment—all buildings and lands which are occupied or used for air-force purposes ;
- (c) the head of any civil department or railway administration occupying as such any part of the cantonment—all buildings and lands in charge as head of that department or administration.

129. (1) The Health Officer, shall exercise a general sanitary super- vision over the whole cantonment, and shall submit monthly to the Cantonment Authority a report as to the sanitary condition of the cantonment, together with such recommendations in connection therewith as he thinks fit.

(2) The Assistant Health Officer shall perform such duties in connection with the sanitation of the cantonment as are, subject to the control of the Cantonment Authority, allotted to him by the Health Officer.

*Conservancy and Sanitation,*

130. All public latrines and urinals provided or maintained by a Cantonment Authority shall be so constructed as to provide separate compartments for each sex and not to be a nuisance, and shall be provided with all necessary conservancy establishments, and shall regularly be cleansed and kept in proper order.

131. (1) On the application or with the consent of the occupier of any building or land. or, where the occupier of any building or land fails to make arrangements to the satisfaction of the Cantonment Authority for the matters referred to in this section, without such consent, and after giving notice in writing to the occupier, a Cantonment Authority may undertake, the house scavenging of any building or land in the cantonment for such period as it thinks fit on such terms as it may prescribe in this behalf.

(2) Where the Cantonment Authority has undertaken the duties referred to in this section, all matter removed in the performance of such duties shall be the property of that Authority.

(3) For the purposes of this section, house scavenging'' means the removal of filth or rubbish or other offensive matter from a privy, latrine, urinal, drain, cesspool, or other common receptacle for such matter.

132. (1) Every Cantonment Authority shall provide or appoint, in proper and convenient situations, public receptacles, depôts or places for the temporary deposit or disposal of household rubbish, offensive matter, carcasses of dead animals and sewage.

(2) The Cantonment Authority may, by public notice, issue directions as to the time at which, the manner in which, and the conditions subject to which, any matter referred to in sub-section (1) may be removed along a street or may be deposited or otherwise disposed of.

(3) All matter deposited in receptacles, depôts or places provided or appointed under this section shall be the property of the Cantonment Authority.

Cesspools, receptacles for filth, etc. 133. The Executive Officer of any cantonment may, by notice in writing,—

(a) require any person having the control whether as owner, lessee or occupier of any land or building in the cantonment—

(i) to close any cesspool appertaining to the land or building which is, in the opinion of the Executive Officer, a nuisance, or

(ii) to keep in a clean condition, in such manner as may be prescribed by the notice, any receptacle for filth or sewage accumulating on the land or in the building, or

(iii) to prevent the water of any private latrine, urinal, sink or bathroom, or any other offensive matter, from soaking, draining or flowing, or being put from the land or building upon any street or other public place, or into any water-course or into any drain not intended for the purpose, or

(iv) to collect and deposit for removal by the conservancy establishment of the Cantonment Authority, within such time and in such receptacle or place, situate at not more than one hundred feet from the nearest boundary of the premises, as may be specified in the notice, any offensive matter or rubbish which such person has allowed to accumulate or remain under, in or on such building or land; or

(b) require any person to desist from making or altering any drain leading into a public drain; or

(c) require any person having the control of a drain in the cantonment to cleanse, purify, repair or alter the same, or otherwise put it in good order, within such time as may be specified in the notice.

134. (1) Where any well, tank, cistern, reservoir, receptacle, or other place in the cantonment where water is stored or accumulates, whether within any private enclosure or not, is in such a condition as to create a nuisance or, in the opinion of the Health Officer, or the Assistant Health Officer, is or is likely to be a breeding place for mosquitoes, the Cantonment Authority may, by notice

in writing, require the owner, lessee or occupier thereof within such period as may be specified in the notice, to fill up or cover the well, cistern, reservoir or receptacle, or to fill up the tank, or to drain off or remove the water, as the case may be.

(2) The Cantonment Authority may, if it thinks fit, with the previous sanction of the officer Commanding the District, meet the whole or any portion of the expenses incurred in complying with a requisition under sub-section (1).

135. A Cantonment Authority may, by notice in writing, require the owner or lessee of any building or land in the Provision of latrines, etc. cantonment to provide, in such manner as may be specified in the notice, any latrine, urinal, cesspool, dust-bin or other receptacle for filth, sewage, or rubbish, or any additional latrine, urinal, cesspool or other receptacle as aforesaid, which should, in its opinion, be provided for the building or land.

136. Every person employing whether on behalf of the Government or otherwise, more than ten workmen or labourers, Sanitation in factories etc. and every person managing or having control of a market, school, theatre or other place of public resort, in a cantonment shall give notice of the fact to the Cantonment Authority, and shall provide such latrines and urinals, and shall employ such number of sweepers, as the Cantonment Authority thinks fit, and shall cause the latrines and urinals to be kept clean and in proper order.

Provided that nothing in this section shall apply in the case of a factory to which the Indian Factories Act, 1911,\* applies.

137. A Cantonment Authority may, by notice in writing,—  
Private latrines.

- (a) require the owner or other person having the control of any private latrine or urinal in the cantonment not to put the same to public use; or
- (b) where any plan for the construction of private latrines or urinals has been approved by the Cantonment Authority, and copies thereof may be obtained free of charge on application,—
  - (i) require any person repairing or constructing any private latrine or urinal not to allow the same to be used until it has been inspected by or under the direction of the Health Officer and approved by him as conforming with such plan, or
  - (ii) require any person having control of any private latrine or urinal to re-build or alter the same in accordance with such plan; or
- (c) require the owner or other person having the control of any such private latrine or urinal which, in the opinion of the Cantonment Authority, constitutes a nuisance, to remove the latrine or urinal; or
- (d) require any person having the control whether as owner, lessee or occupier of any land or building in the cantonment—

- (i) to have any latrines provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or
- (ii) to cleanse in such manner as the Cantonment Authority may specify in the notice any latrine or urinal belonging to the land or building ; or
- (e) require any person being the owner and having the control of any drain in the cantonment to provide, within ten days from the service of the notice, such covering as may be specified in the notice.

138. (1) Where it appears to a Cantonment Authority that any block of buildings in the cantonment is in an unhealthy condition by reason of the manner in which the buildings are crowded together, or of the narrowness or closeness of the street, or of the want of proper drainage or ventilation, or of the impracticability of cleansing the buildings or other similar cause, it may cause the block to be inspected by a committee consisting of—

- (a) the Health Officer,
- (b) the Civil Surgeon of the district or, if his services are not available, some other medical officer of the Government,
- (c) the Executive Engineer or a person deputed by the Executive Engineer in this behalf, and
- (d) where there is a board, two non-official members thereof.

(2) The committee shall make a report in writing to the Cantonment Authority regarding the sanitary condition of the block, and, if it considers that the condition thereof is likely to cause risk of disease to the inhabitants of the building or of the neighbourhood or otherwise to endanger the public health, it shall clearly indicate on a plan verified by the Executive Engineer or the person deputed by him to serve on the committee, the buildings which should in its opinion wholly or in part be removed in order to abate the unhealthy condition of the block.

(3) If, upon receipt of such report, the Cantonment Authority is of opinion that all or any buildings indicated should be removed, it may, by notice in writing, require the owners thereof to remove them :

Provided, that the Cantonment Authority shall make compensation to the owners for any buildings so removed which may have been erected under proper authority :

Provided, further, that the Cantonment Authority may, if it considers it equitable in the circumstances so to do, pay to the owners such sum as it thinks fit as compensation for any buildings so removed which have not been erected under proper authority.

(4) For the purposes of this section "buildings" includes enclosure walls and fences appertaining to buildings.

139. (1) Where it appears to a Cantonment Authority that any building or part of a building in the cantonment which is used as a dwelling house is so overcrowded

Over crowding of dwelling houses,

as to endanger the health of the inmates thereof, it may, after such inquiry as it thinks fit by notice in writing require the owner or occupier of the building or part thereof, as the case may be within such time not being less than one month as may be specified in the notice, to abate the overcrowding of the same by reducing the number of lodgers, tenants, or other inmates to such number as may be specified in the notice.

(2) Any person who fails without reasonable cause, to comply with a requisition made upon him under sub-section (1) shall be punishable with fine which may extend to fifty rupees, and, in the case of a continuing offence, to an additional fine which may extend to five rupees for every day after the first during which the failure has continued.

140. (1) Where any building in a cantonment is so ill-constructed or dilapidated as to be, in the opinion of the Cantonment Authority, in an insanitary state, the Cantonment Authority may by notice in writing, require the owner, within such time as may be specified in the notice, to execute such repairs or to make such alterations as it thinks necessary for the purpose of removing such defects.

(2) A copy of every notice issued under sub-section (1) shall be conspicuously posted on the building to which it relates.

(3) A notice issued under sub-section (1) shall be deemed to have been complied with if the owner of the building to which it relates has, instead of executing the repairs or making the alterations directed by the notice, removed the building.

141. (1) The Executive Officer may, by notice in writing require the owner, lessee or occupier of any building or land in the cantonment, which appears to him to be in a filthy or insanitary state within twenty-four hours to cleanse the same or otherwise put it in a proper state, in such manner as may be specified in the notice.

(2) If, within three months from the date of the service of a notice under sub-section (1), any building or land in respect of which the notice was issued is again in a filthy or insanitary state, the owner lessee or occupier, as the case may be shall be punishable with fine which may extend to two hundred rupees.

142. If a Cantonment Authority is satisfied that any building or part of a building in the cantonment which is intended for or used as a dwelling place is unfit for human habitation, it may cause a notice to be posted on some conspicuous part of the building prohibiting the owner or occupier thereof from using the building or room for human habitation or allowing it to be so used, until it has been rendered fit for such use to the satisfaction of the Cantonment Authority.

143. A Cantonment Authority may, by notice in writing, require the owner, lessee, or occupier of any land in the cantonment to clear away and remove any thick or noxious vegetation or undergrowth which appears to it to be injurious to health or offensive to persons residing in the neighbourhood.

244. Where, in the opinion of a Cantonment Authority, the cultivation in the cantonment of any description of crop or the use therein of any kind of manure or the irrigation of any land therein in any specified manner is likely to be injurious to the health of persons dwelling in the neighbourhood, the Cantonment Authority may, by public notice, prohibit such cultivation, use or irrigation after such date as may be specified in the notice, or may by a like notice, direct that it shall be carried out subject to such conditions as the Cantonment Authority thinks fit:

Provided that if, when a notice is issued under this section any land to which it relates has been lawfully prepared for cultivation or any crop is sown therein or is standing thereon the Cantonment Authority shall, if it directs that the notice is to take effect on a date earlier than that by which the crop would ordinarily be sown or reaped, as the case may be make compensation to all persons interested in the land or crop for the loss, if any incurred by them respectively by reason of compliance with the notice.

#### *Burial and Burning Grounds.*

145. A Cantonment Authority may, by notice in writing require the owner or person in charge of any burial or burning ground in the cantonment to supply such information as may be specified in the notice concerning the condition, management or position of such ground.

146. (1) No place in a cantonment which has not been used as a burial or burning ground before the commencement of this Act shall be so used without the permission in writing of the Cantonment Authority.

(2) Such permission may be granted subject to any conditions which the Cantonment Authority thinks fit to impose for preventing annoyance to, or danger to the health of persons residing in the neighbourhood.

147. (1) Where a Cantonment Authority, after making or causing to be made local inquiry, is of opinion that any burial or burning ground in the cantonment has become offensive to, or dangerous to the health of persons living in the neighbourhood it may, with the previous sanction of the Local Government, by notice in writing, require the owner or person in charge of such ground to close the same from such date as may be specified in the notice.

(2) Where the Local Government sanctions the issue of any notice under sub-section (1), it shall declare the conditions on which the burial or burning ground may be re-opened and, a copy of such declaration shall be annexed to the notice. \*

(3) Where the Local Government sanctions the issue of any such notice it shall require a new burial or burning ground to be provided at the expense of the cantonment fund, or, if the community concerned is willing to provide a new burial or burning ground, the Local Government

shall require a grant to be made from the cantonment fund towards the cost of the same.

(4) No corpse shall be buried or burnt in any burial or burning ground in respect of which a notice issued under this section is for the time being in force.

Exemption from operation of sections 145 to 147. 148. The provisions of sections 145, 146 and 147 shall not apply in the case of any burial ground which is for the time being managed by or on behalf of the Government.

149. A Cantonment Authority may, by public notice, prescribe routes in the cantonment by which alone corpses may be removed to burial or burning grounds.

*Prevention of Infectious or Contagious Diseases.*

150. Whoever, being in charge of, or in attendance whether as a medical practitioner or otherwise upon any person in a cantonment whom he knows or has reason to believe to be suffering from a contagious or infectious disease, or being the owner, lessee or occupier of any building in a cantonment in which he knows that any such person is so suffering shall if he fails to give information or if he gives false information to the Cantonment Authority respecting the existence of such disease be punishable with fine which may extend to one hundred rupees :

Provided that no person shall be punishable under this section for failure to give information if he had reasonable cause to believe that the information had already been duly given :

Provide further, that this section shall not apply in the case of venereal disease where the person suffering therefrom is under specific and adequate medical treatment and is, by reason of his habits and conditions of life and residence unlikely to spread disease.

151. (1) In the event of a cantonment being visited or threatened by an outbreak of any infectious or contagious disease among the inhabitants thereof or of any epidemic disease among any animals therein the Officer Commanding the District, if he thinks that the provisions of this Act of any law for the time being in force in the cantonment are insufficient for the purpose may, with the previous sanction of the Local Government,—

(a) take such special measures, and

(b) by public notice, make such temporary regulations to be observed by the public or by any class or section of the public,

as he think necessary to prevent the outbreak or the spread of the disease;

Provided that, where in the opinion of the Officer Commanding the District immediate measures are necessary, he may take action without such sanction as aforesaid and if he does so shall forthwith report such action to the Local Government.



(2) Whoever commits a breach of any temporary regulation made under sub section (1) shall be deemed to have committed an offence under section 188 of the Indian Penal Code\*.

152. Where it is certified to the Executive Officer by a medical practitioner that the outbreak or spread of any infectious or contagious disease in the cantonment is in the opinion of such medical practitioner attributable to the milk supplied by any dairyman the Executive Officer may by notice in writing require the dairyman, within such time as may be specified in the notice to furnish him with a full and complete list of the names and addresses of all his customers within the cantonment or to give him such information as will enable him to trace the persons to whom the dairyman has sold milk.

153. Where it is certified to the Executive Officer by the Health Officer that it is desirable with a view to prevent the spread of any infectious or contagious disease in the cantonment, that the Health Officer should be furnished with a list of the customers of any washerman, the Executive Officer may by notice in writing require the washerman within a time to be specified in the notice to furnish the Health Office with a full and complete list of the names and addresses of all owners within the cantonment of clothes and other articles which the washerman washes or has washed during the six weeks immediately preceeding the date of the notice.

154. Where, after inspection the Health Officer is of opinion that any infectious or contagious disease is caused or is likely to arise in the cantonment from the consumption of the milk supplied from a dairy or from the washing of clothes or other articles in any place, or from any process employed by a washerman, he shall report the matter to the Executive Officer.

155. Upon receipt of a report submitted by the Health Officer under section 154, the Executive Officer may by notice in writing,—

(a) prohibit the supply of milk from the dairy until the notice has been withdrawn ; or

(b) prohibit the washerman from washing clothes or other articles in any such place or by any such process as aforesaid until the notice has been withdrawn or unless he uses such place in such manner, or washes by such process, as the Executive Officer may direct in the notice.

156. The Health Officer may take possession of any milk, clothes or other articles which are or have recently been in the possession of any dairyman on whom a notice has been served under section 152, or of any clothes or other articles which are or have recently been in the

possession of any washerman, on whom a notice has been served under section 153, and may subject the same or cause the same to be subjected to such chemical or other process as he may think necessary; and the Cantonment Authority shall pay from the cantonment fund all the costs of the process and shall also pay to the owner of the milk, clothes or their articles such sum as compensation for any loss occasioned by such process as may appear to it to be reasonable.

157. Whoever in a cantonment—

Contamination of public conveyance.

- (a) uses a public conveyance while suffering from an infectious or contagious disease, or
- (b) uses a public conveyance for the carriage of a person who is suffering from any such disease, or
- (c) uses a public conveyance for the carriage of the corpse of a person who has died from any such disease,

shall be bound to take proper precautions against the communication of the disease to other persons using or who may thereafter use the conveyance and to notify such use to the owner, driver or person in charge of the conveyance, and further to report without delay to the Executive Officer the number of the conveyance and the name of the person so notified.

158. (1) Where any person suffering from, or the corpse of any person who has died from, an infectious or contagious disease has been carried in a public conveyance which ordinarily plies in a cantonment, the driver thereof shall forthwith report the fact to the Executive Officer who shall forthwith cause the conveyance to be disinfected if that has not already been done.

(2) No such conveyance shall be brought again into use until the Executive Officer has granted a certificate stating that it can be used without causing risk of infection.

159. Whoever fails to make to the Executive Officer any report which he is required to make by section 157 or section 158, shall be punishable with fine which may extend to one hundred rupees.

Penalty for failure to report.

160. Notwithstanding anything contained in any law for the time being in force, no owner, driver or person in charge of a public conveyance shall be bound to convey or to allow to be conveyed in such conveyance in or in the vicinity of a cantonment any person suffering from an infectious or contagious disease or the corpse of any person who has died from such disease unless and until such person pays or tenders a sum sufficient to cover any loss and expense which would ordinarily be incurred in disinfecting the conveyance.

Driver of conveyance not bound to carry person suffering from infectious or contagious disease.

161. Where a Cantonment Authority is, upon the advice of the Health Officer, of opinion that the cleansing and disinfection of any building or part of a building in the cantonment or of any articles in any such building or part which are likely to retain infection, or the renewal of the flooring of any such building or part of such building, would tend to prevent or check the spread of any infectious or contagious disease, he may, by notice in writing, require the owner or occupier to cleanse and disinfect the said building, part or articles, as the case may be, or to renew the said flooring, within such time as may be specified in the notice :

Provided that where, in the opinion of the Cantonment Authority, the owner or occupier is from poverty or any other cause unable effectually to carry out any such requisition, the Cantonment Authority may, at the expense of the cantonment fund, cleanse and disinfect the building, part or articles, or, as the case may be, renew the flooring.

162. (1) Where the destruction of any hut or shed in a cantonment is, in the opinion of the Cantonment Authority, necessary to prevent the spread of any infectious or contagious disease the Cantonment Authority may, by notice in writing require the owner to destroy the hut or shed and the materials thereof within such time as may be specified in the notice.

(2) Where the President of a Board or, where there is no Board, the Commanding Officer of the cantonment, is satisfied that the destruction of any hut or shed in the cantonment is immediately necessary for the purpose of preventing the spread of any infectious or contagious disease, he may order the owner or occupier of the hut or shed to destroy the same forthwith, or may himself cause it to be destroyed after giving not less than two hours' notice to the owner or occupier thereof.

(3) The Cantonment Authority shall pay compensation to the owner of any hut or shed destroyed under this section.

163. The Cantonment Authority shall provide free of charge temporary shelter or house accommodation for the inmates of disinfected or destroyed building or shed. any proceedings taken under section 161 or section 162 and who desire such shelter or accommodation as aforesaid to be provided for them.

164. (1) Where in a cantonment any building or part of a building is intended to be let in which any person has, within the six weeks immediately preceding been suffering from an infectious or contagious disease, the person letting the building or part shall before doing so disinfect the same in such manner as the Cantonment Authority may, by public or special notice, direct, together with all articles therein liable to retain infection.

(2) For the purposes of this section, the keeper of an hotel, lodging house or sarai shall be deemed to let to any person who is admitted as a

guest therein that part of the building in which such person is permitted to reside.

165. No person shall, without previous disinfection of the same, give, lend, sell, transmit or otherwise dispose of to another person any article or thing which he knows or has reason to believe has been exposed to contamination by any infectious or contagious disease and is likely to be used in, or taken into, a cantonment.

166. (1) Every Cantonment Authority shall—

Means of disinfection.

(a) provide proper places with necessary attendants and apparatus for the disinfection of conveyances, clothing, bedding or other articles which have been exposed to infection ;

(b) cause conveyances, clothing or other articles brought for disinfection to be disinfected either free of charge or on payment of such charges as it may fix.

(2) A Cantonment Authority may notify places at which articles of clothing, bedding, conveyances or other articles which have been exposed to infection shall be washed and, if it does so, no person shall wash any such thing at any place not so notified without having previously disinfected such thing.

(3) The President of a Board or, where there is no Board the Commanding Officer of the cantonment, may direct the destruction of any clothing, bedding or other article in the cantonment likely to retain infection, and may give such compensation as he thinks fit for any articles so destroyed.

Making or selling of food, etc., or washing clothes by infected person

167. Whoever, while suffering from, or in circumstances in which he is likely to spread, any infectious or contagious disease,—

(a) makes, carries or offers for sale in a cantonment or takes any part in the business of making, carrying or offering for sale therein any article of food or drink or any medicine or drug for human consumption, or any article of clothing or bedding for personal use or wear, or

(b) takes any part in the business of the washing or carrying of clothes,

shall be punishable with fine which may extend to one hundred rupees.

168. When a cantonment is visited or threatened by an outbreak of any infectious or contagious disease, the Cantonment Authority may, by public notice, restrict in such manner or prohibit for such period, as may be specified in the notice, the sale or preparation of any article of food or drink for human consumption specified in the notice or the sale of any flesh of any description of animals so specified.

169. (1) If a Cantonment Authority is of opinion that the water in any well, tanks or other place is likely, if used for drinking, to engender, or cause the spread of, any disease, it may,—

Control over wells, tanks, etc.

(a) by public notice, prohibit the removal or use of such water for drinking ;

(b) by notice in writing, require the owner or person having control of such well, tank or place to take such steps as may be directed by the notice to prevent the public from having access to or using such water ; or

(c) take such other steps as it may consider expedient to prevent the outbreak or spread of any such disease.

(2) In the event of a cantonment or any part of a cantonment being visited or threatened by an outbreak of any infectious or contagious disease, the Health Officer or any person authorised by him in this behalf may, without notice and at any time inspect and disinfect any well, tank or other place from which water is, or is likely to be, taken for the purposes of drinking, and may further take such steps as he thinks fit to ensure the purity of the water or to prevent the use of the same for drinking purposes.

170. Where any person has died in a cantonment from any infectious or contagious disease, the Executive Officer may, by notice in writing,—

Disposal of infectious corpse.

(a) require any person having charge of the corpse to convey the same to a mortuary, thereafter to be disposed of in accordance with law ; or

(b) prohibit the removal of the corpse from the place where death occurred except for the purpose of being buried or burned or of being conveyed to a mortuary.

### *Hospitals and Dispensaries.*

171. (1) A Cantonment Authority may—

Maintenance or aiding of hospitals or dispensaries.

(a) provide and maintain either within or without the cantonment as many hospitals and dispensaries as it thinks fit ; or

(b) make, upon such terms as it thinks fit to impose, a grant-in-aid to any hospital or dispensary, whether within or without the cantonment, not maintained by it.

(2) Every hospital or dispensary maintained or aided under subsection (1) shall have attached to it a ward or wards for the treatment of persons suffering from infectious or contagious diseases.

(3) A medical officer, appointed in such manner as the Local Government may direct shall be in charge of every hospital or dispensary maintained or aided under this section.

172. (1) Every hospital or dispensary maintained or aided under section 171 shall be maintained in accordance with any general or special orders of the Governor General in Council or the Local Government for the conduct of hospital and dispensaries or in accordance with the said orders modified in such manner as the Governor General in Council or the Local Government, as the case may be, thinks fit.

(2) The Cantonment Authority shall cause every such hospital or dispensary to be provided with all requisite drugs, instruments, apparatus, furniture and appliances and with sufficient cots, bedding and clothing for in-patients.

173. An every hospital or dispensary maintained or aided under section 171, the sick poor of the cantonment and other inhabitants of the cantonment, suffering from infectious or contagious diseases, and, with the sanction of the Cantonment Authority any other sick persons, may receive medical treatment free of cost and, if treated as in-patients, shall be either dieted gratuitously or, if the medical officer in charge so directs, shall be granted subsistence allowance on such scale as Cantonment Authority may fix :

Provided that the subsistence allowance shall not be less than the lowest allowance for the time being fixed for the subsistence of judgment debtors by the Local Government under section 57 of the Code of Civil Procedure, 1908.\*

174. Any sick person who is ineligible to receive medical treatment free of cost in any hospital or dispensary under section 173 may be admitted to treatment therein upon such terms as the cantonment Authority thinks fit.

175. (1) If the Health Officer or the medical officer in charge of a hospital or dispensary maintained or aided under section 171 has reason to believe that any person living in the cantonment is suffering from an infectious or contagious disease, he may, by notice in writing, call upon such person to attend for examination at any such hospital or dispensary at such time as may be specified in the notice and not to quit it without the permission of the medical officer in charge ; and, on the arrival of such person at the hospital or dispensary, the medical officer in charge thereof may examine him for the purpose of satisfying himself whether or not such person is suffering from an infectious or contagious disease ;

Provided that, if, having regard to the nature of the disease or the condition of the person suffering therefrom, or the general environment and circumstances of such person, the Health Officer or medical officer, as the case may be, considers that the attendance of such person at a hospital or dispensary is likely to prove unnecessary or inexpedient, he shall examine such person at such person's own residence.

(2) If any person, on examination under sub-section (1), is found to be suffering from an infectious or contagious disease, the Health Officer

\* V of 1908.

or medical officer, as the case may be, may cause him to be detained in hospital until he is free from the infection or contagion :

Provided that, if having regard to the nature of the disease or the condition of the person suffering therefrom, or the general environment and circumstances of such person, he considers that the detention of such person at a hospital or dispensary is unnecessary or inexpedient, he shall discharge such person and take such measures or give such directions in the matter as he thinks necessary.

176. (1) If the Health Officer or the medical officer in charge of a hospital or dispensary maintained or aided under section 171 reports in writing to the Commanding Officer of the cantonment that any person having received a notice under section 175 has refused or omitted to attend at the hospital or dispensary, specified in the notice, or that such person, having attended the hospital or dispensary, has quitted it without the permission of such medical officer, or that any person has failed to comply with any direction given to him under section 175, the Commanding Officer of the cantonment may, by order in writing, direct such person to remove from the cantonment within twenty four hours and not to re-enter it without his permission in writing.

(2) No person who has under sub-section (1) been ordered to remove from and not to re-enter a cantonment shall enter any other cantonment in British India without the written permission of the Commanding Officer of that cantonment.

*Control of Traffic for Hygienic Purposes.*

177. (1) A Cantonment Authority may provide or prescribe suitable Routes for pilgrims and routes for the use of persons passing through others. the cantonment—

(a) on their way to or from fairs or places of pilgrimage or other places of public resort ; or

(b) during times when an infectious or contagious disease is prevalent.

and may, by public notice, require such person as aforesaid to use such routes and no others.

(2) All routes provided or prescribed under sub-section (1) shall be clearly and sufficiently indicated by the cantonment Authority.

*Special Conditions regarding Essential Services.*

178. (1) Whoever, being a sweeper employed by a Cantonment Authority, in the absence of a written contract authorising him so to do and without reasonable cause, resigns his employment or absents himself from his duty, without having given one month's notice to the Cantonment Authority, or neglects or refuses to perform his duties, or any of them, shall be punishable with imprisonment which may extend to one month.

(2) The Local Government may, by notification in the local official Gazette direct that on and from such date as may be specified in the notification, the provisions of this section shall apply in the case of any

specified class of servants employed by a Cantonment Authority whose functions intimately concern the public health or safety.

(3) For the purposes of this section, "sweeper" includes any menial servant employed by a Cantonment Authority in the removal or disposal of filth or rubbish.

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## CHAPTER XI.

### CONTROL OVER BUILDINGS, STREETS, BOUNDARIES, TREES, ETC.

#### *Buildings.*

179. (1) Whoever intends to erect or re-erect any building in a  
Notice of new buildings. cantonment shall give notice in writing of his intention to the Cantonment Authority.

(2) For the purposes of this Act, a person shall be deemed to erect or re-erect a building who—

- (a) makes any material alteration or enlargement of any building, or
- (b) converts into a place for human habitation any building not originally constructed for that purpose, or
- (c) converts into more than one place for human habitation a building originally constructed as one such place, or
- (d) converts two or more places of human habitation into a greater number of such places, or
- (e) converts into a stable, cattle-shed or cow-house any building originally constructed for human habitation, or
- (f) makes any alteration which there is reason to believe is likely to affect prejudicially the stability or safety of any building or the condition of any building in respect of drainage, sanitation or hygiene, or
- (g) makes any alteration to any building which increases or diminishes the height of, or area covered by, or the cubic capacity of, the building, or which reduces the cubic capacity of any room in the building below the minimum prescribed by any bye-law made under this Act.

180. (1) A person giving the notice required by section 179 shall  
Conditions of valid notice. specify the purpose for which it is intended to use the building to which such notice relates.

(2) No notice shall be valid until the information required under sub-section (1) and any further information and plans which may be required under bye-laws made under this Act have been furnished to the satisfaction of the Cantonment Authority along with the notice.



181. The Cantonment Authority may either refuse to sanction the erection or re-erection, as the case may be, of the building, or may sanction it either absolutely or subject to such directions as it thinks fit to make in writing in respect of all or any of the following matters, namely :—

- (a) the free passage or way to be left in front of the building ;
- (b) the space to be left about the building to secure free circulation of air and facilitate scavenging and the prevention of fire ;
- (c) the ventilation of the building, the minimum cubic area of the rooms, and the number and height of the storeys of which the building may consist ;
- (d) the provision and position of drains, latrines, urinals, cesspools or other receptacles for filth ;
- (e) the level and width of the foundation, the level of the lowest floor and the stability of the structure ;
- (f) the line of frontage with neighbouring buildings if the building abuts on a street ;
- (g) the means to be provided for egress from the building in case of fire ;
- (h) the materials and method of construction to be used for external and party walls for rooms, floors, fire-places and chimneys ;
- (i) the height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on and
- (j) any other matter affecting the ventilation and sanitation of the building ;

and the person erecting or re-erecting the building shall obey all such written directions in every particular.

(2) If the Cantonment Authority decides to refuse to sanction the erection or re-erection of the building, it shall communicate in writing the reasons for such refusal to the person by whom the notice was given.

(3) Where the Cantonment Authority neglects or omits, for one month after the receipt of a valid notice, to make and deliver to the person who has given the notice any order of any nature specified in this section, and such person thereafter, by a written communication, sent by registered post to the Cantonment Authority calls the attention of the Cantonment Authority to the neglect or omission, then, if such neglect or omission continues for a further period of fifteen days from the date of such communication, the Cantonment Authority shall be deemed to have given sanction to the erection or re-erection, as the case may be, unconditionally.

(4) The Cantonment Authority may refuse to sanction the erection or re-erection of any building either on grounds affecting the particular building or in pursuance of a general scheme sanctioned by the Officer

Commanding-in-Chief, the Command, restricting the erection or re-erection of buildings within specified limits for the prevention of overcrowding or in the interests of persons residing within such limits or for any other public purpose.

182. (1) No Compensation shall be claimable by any person for any damage or loss which he may sustain in consequence of the refusal of the Cantonment Authority of sanction to the erection of any building or in respect of any direction issued by it under sub-section (1) of section 181.

(2) The Cantonment Authority shall make compensation to the owner of any building for any actual damage or loss sustained by him in consequence of the prohibition of the re-erection of any building or of its requiring any land belonging to him to be added to the street :

Provided that the Cantonment Authority shall not be liable to make any compensation in respect of the prohibition of the re-erection of any building which for a period of three years or more immediately preceding such refusal has not been in existence or has been unfit for human habitation.

183. Every sanction for the erection or re-erection of a building given or deemed to have been given by the Cantonment Authority as herein before provided shall be available for one year from the date on which it is given and if the building so sanctioned is not begun by the person who has obtained the sanction or some one lawfully claiming under him within that period, it shall not thereafter be begun without fresh sanction obtained in the manner hereinbefore provided.

184. Whoever begins continues or completes the erection or re-erection of building—  
Illegal erection and re-erection.

(a) without having giving a valid notice as required by section 179 and 180, or before the building has been sanctioned or is deemed to have been sanctioned, or

(b) without complying with any direction made under sub-section (1) of section 181, or

(c) when sanction has been refused, or has ceased to be available, shall be punishable with fine which may extend to five hundred rupees.

185. A Cantonment Authority may, at any time, by notice in writing direct the owner, lessee or occupier of any land in the cantonment to stop the erection or re-erection of a building in any case in which the Cantonment Authority considers that such erection or re-erection is an offence under section 184, and may in any such case in like manner direct the alteration or demolition, as it thinks necessary, of the building or any part thereof so erected or re-erected ;  
Power to stop erection or re-erection or to demolish.

Provided that the Cantonment Authority may, instead of requiring the alteration or demolition of any such building or part thereof, accept by way of composition such sum as it thinks reasonable.

186. A Cantonment Authority may make bye-laws prescribing—  
Power to make bye-laws.

- (a) the manner in which notice of the intention to erect or re-erect a building in the cantonment shall be given to the Cantonment Authority and the information and plans to be furnished with the notice ;
- (b) the type or description of buildings which may or may not, and the purpose for which a building may or may not, be erected or re-erected in any specified area or areas ;
- (c) the minimum cubic capacity of any room or rooms in a building which is to be erected or re-erected and
- (d) the fees payable on provision by the Cantonment Authority of plans or specifications of the type of buildings which may be erected in the cantonment or any part thereof.

187. (1) No owner or occupier of any building in a cantonment shall without the permission in writing of the Cantonment Authority, add to or place against or in front of the building any projection or structure overhanging, projecting into, or encroaching on any street or any drain, sewer or aqueduct therein.

(2) The Cantonment Authority may by notice in writing, require the owner or occupier of any such building to alter or remove any such projection or encroachment as aforesaid :

Provided that in the case of any projection or encroachment lawfully in existence at the commencement of this Act, the Cantonment Authority shall make compensation for any damage caused by the removal or alteration.

(3) The Cantonment Authority may by order in writing, give permission to the owners or occupiers of buildings in any particular street to put up open verandahs, balconies or rooms projecting from any upper storey thereof to an extent beyond the line of the plinth or basement wall at such height from the level ground or street as may be specified in the order.

188. A Cantonment Authority may, by notice in writing, require any person who has, without its permission in writing, newly erected or re-erected any building over any public sewer, drain, culvert, water-course or water-pipe in the cantonment to pull down or otherwise deal with the same as it thinks fit.

189. (1) A Cantonment Authority may, by notice in writing require the owner or lessee of any building or land in any street at his own expense and in such manner as the Cantonment Authority thinks fit, to put up and keep in good condition proper troughs and pipes for receiving and carrying rain water from the building or land and for discharging the same or to establish and maintain any other connection or communication between such building or land and any drain or sewer.

(2) For the purpose of efficiently draining any building or land in the cantonment the Cantonment Authority may by notice in writing require the owner or lessee of the building or land—

(a) to pave with such materials and in such manner as it thinks fit, any courtyard, ally or passage between two or more buildings, or

(b) to keep any such paving in proper repair.

190. A Cantonment Authority may attach to the outside of any building, or to any tree in the cantonment, brackets for lamps in such manner as not to occasion injury thereto or inconvenience.

Power to attach brackets for lamps.

### *Streets.*

191. A Cantonment Authority may, by order in writing, permit the temporary occupation of any street, or of any land vested in the Cantonment Authority, for the purpose of depositing any building materials or making any temporary excavation therein or erection thereon, subject to such conditions as it may prescribe for the safety or convenience of the public, and may charge a fee for such permission and may in its discretion withdraw such permission.

Temporary occupation of street, land, etc.

192. (1) A Cantonment Authority shall not permanently close any streets or open any new streets without the previous sanction of the Officer Commanding the District.

Closing and opening of streets.

(2) A Cantonment Authority may, by public notice, temporarily close any street or any part of a street for repair or for the purpose of carrying out any work connected with drainage, water-supply lighting or any other work which it is by or under this Act required or permitted to carry out :

Provided that where, owing to any works or repairs or from any other cause, the condition of any street or of any water-works drain culvert or premises vested in the Cantonment Authority, is such as to be likely to cause danger to the public, the Cantonment Authority shall—

(a) take all reasonable means for the protection of the adjacent buildings and land and provide reasonable means of access thereto ;

(b) cause sufficient barriers or fences to be erected for the security of life and property, and cause such barriers or fences to be sufficiently lighted from sunset to sunrise.

193. (1) A Cantonment Authority may cause a name to be given to any street and to be affixed on any building in the cantonment in such place as it thinks fit and may also cause a number to be affixed to any such building.

Names of streets and numbers of buildings.

(2) Whoever destroys, pulls down, defaces or alters any such name or number or puts up any name or number differing from that put up by the order of the Cantonment Authority shall be punishable with fine which may extend to twenty rupees.

*Boundaries and Trees.*

194. (1) No boundary wall, hedge or fence of any material or description shall be erected in a cantonment without the permission in writing of the Cantonment Authority.

Boundary walls hedges and fences.

(2) A Cantonment Authority may by notice in writing, require the owner or lessee of any land in the cantonment—

(a) to remove from the land any boundary wall, hedge or fence which is, in its opinion unsuitable, unsightly or otherwise objectionable ; or

(b) to construct on the land sufficient boundary walls, hedges or fences of such material, description or dimensions as may be specified in the notice ; or

(c) to maintain the boundary walls, hedges or fences of such land in good order ;

Provided that, in the case of any such boundary wall, hedge or fence which was erected with the consent or under the orders of the Cantonment Authority, or which was in existence at the commencement of this Act, the Cantonment Authority shall make compensation for any damage caused by the removal thereof.

(2) The Cantonment Authority may by notice in writing require the owner, lessee or occupier of any such land to cut or trim any hedge on the land in such manner and within such time as may be specified in the notice.

195. (1) Where, in the opinion of a Cantonment Authority, the felling of any tree of mature growth standing in a private enclosure in the cantonment is necessary for any reason, the Cantonment Authority may, by notice in writing, require the owner, lessee or occupier of the land to fell the tree within such time as may be specified in the notice.

Felling, lopping and trimming of trees.

(2) A Cantonment Authority may—

(a) cause to be lopped or trimmed any tree standing on land in the cantonment which belongs to the Government ; or

(b) by public notice require all owners, lessees or occupiers of land in the cantonment or by notice in writing require the owner lessee or occupier of any such land, to lop or trim, in such manner as may be specified in the notice, all or any trees standing on such land or to remove any dead trees from such land.

196. Whoever, without the permission in writing of the Cantonment Authority, digs up the surface of any open space in the cantonment which is not private property, shall be punishable with fine which may extend to twenty rupees, and, in the case of a continuing offence, to a additional fine which may extend to five rupees for every day after the first during which the offence continues.

Digging of public land.

197. (1) If, in the opinion of a Cantonment Authority the working of a quarry in the cantonment, or the removal of stone, earth or other material from the soil in any place in the cantonment, is dangerous to persons residing in or frequenting the neighbourhood of such quarry or place or creates or is likely to create a nuisance, the Cantonment Authority may by notice in writing prohibit the owner, lessee or occupier of such quarry or place or the person responsible for such making or removal, from continuing or permitting the working of such quarry or the moving of such material or require him to take such steps in the matter as the Cantonment Authority may direct for the purpose of preventing danger or abating the nuisance arising or likely to arise therefrom.

(2) If, in any case referred to in sub-section (1), the Cantonment Authority is of opinion that such a course is necessary in order to prevent imminent danger it may by order in writing require a proper hoarding or fence to be put up for the protection of passers-by.

## CHAPTER XII.

### MARKETS, SLAUGHTER-HOUSES, TRADES AND OCCUPATIONS.

198. (1) A Cantonment Authority may provide and maintain, either within or without the cantonment, public markets and public slaughter-houses, to such number as it thinks fit together with stalls, shops, sheds, pens and other buildings or conveniences for the use of persons carrying on trade or business in or frequenting such markets or slaughter-houses, and may provide and maintain in any such market buildings places and machines, weights, scales and measures for the weighing or measurement of goods sold therein.

(2) When such market or slaughter-house is situated beyond cantonment limits, the Cantonment Authority shall have the same power for the inspection and proper regulation of the same as if it were situated within those limits.

(3) The Cantonment Authority may at any time, by public notice, close any public market or public slaughter house or any part thereof.

(4) Nothing in this section shall be deemed to authorise the establishment of a public market or public slaughter-house within the limits of any area administered by any local authority other than the Cantonment Authority without the permission of such local authority or otherwise than on such conditions as such local authority may approve.

199. (1) No person shall without the general or special permission in writing of the Cantonment Authority, sell or expose for sale any animal or article in any public market.

(2) Any person contravening the provision of this section, and any animal or article exposed for sale by such person, may be summarily

removed from the market by or under the orders of the Executive Officer or any officer or servant of the Cantonment Authority authorised by it in this behalf.

200. A Cantonment Authority may—

Levy of stallages, rents  
and fees.

- (a) Charge for the occupation or use of any stall, shop, standing, shed or pen in a public market, or public slaughter-house or for the right to expose goods for sale in a public market, or for weighing or measuring goods sold therein, or for the right to slaughter animals in any public slaughter-house such stallages, rents and fees as it thinks fit : or
- (b) with the sanction of the Officer Commanding the District, farm the stallages, rents and fees leviable as aforesaid or any portion thereof for any period not exceeding one year at a time ; or
- (c) put up to public auction, or, with the sanction of the Officer Commanding the District, dispose of by private sale, the privilege of occupying or using any stall, shop, standing, shed or pen in a public market or public slaughter-house for such term and on such condition as it thinks fit.

101. A copy of the table of stallages, rents and fees, if any, leviable in any public market or public slaughter-house, and of the bye-laws made under this Act for the purpose of regulating the use of such market or slaughter-house, printed in the English language and in such other language or languages as the Cantonment Authority may direct, shall be affixed in some conspicuous place in the market or slaughter house.

202. (1) No place in a cantonment other than a public market shall be used as a market, and no place in a cantonment other than a public slaughter-house shall be used as a slaughter-house, unless such place has been licensed as a market or slaughter-house, as the case may be, by the Cantonment Authority :

Provided that nothing in this sub-section shall apply in the case of a slaughter-house established and maintained by the Government.

(2) Nothing in sub-section (1) shall be deemed—

- (a) to restrict the slaughter of any animal in any place on the occasion of any festival or ceremony subject to such conditions as to prior or subsequent notice as the Executive Officer with the previous sanction of the District Magistrate may, by public or special notice, impose in this behalf, or
- (b) to prevent the Executive Officer, with the sanction of the Cantonment Authority, from setting apart places for the slaughter of animals in accordance with religious custom, when such animals are slaughtered for consumption by the troops or for the purpose of the sale of the flesh thereof to the troops.

(3) Whoever omits to comply with any condition imposed by the Executive Officer under clause (a) of sub-section (2) shall be punishable with fine which may extend to fifty rupees and, in the case of a continuing offence, with an additional fine which may extend to ten rupees for every day after the first during which the offence is continued.

203. (1) A Cantonment Authority may charge such fees as it thinks fit to impose for the grant of a licence to any person to open a private market or private slaughter-house in the cantonment, and may grant such licence subject to such conditions, consistent with this Act and any bye-laws made thereunder, as it thinks fit to impose.

(2) The Cantonment Authority may refuse to grant any such licence without giving reasons for such refusal.

204. (1) Any person who keeps open for public use any market or slaughter-house in respect of which a licence is required by or under this Act, without obtaining licence therefor, or while the licence therefor is suspended, or after the same has been cancelled, shall be punishable with fine which may extend to fifty rupees and, in the case of a continuing offence, with an additional fine which may extend to five rupees for every day after the first during which the offence is continued.

(2) When a licence to open a private market or private slaughter-house is granted or refused or is suspended or cancelled, the Cantonment Authority shall cause a notice of the grant, refusal, suspension or cancellation to be posted in English, and in such other language or languages as it thinks necessary, in some conspicuous place by or near the entrance to the place to which the notice relates.

205. Whoever, knowing that any market or slaughter-house has been opened to the public without a licence having been obtained therefor when such licence is required by or under this Act, or that the licence granted therefor is for the time being suspended or that it has been cancelled, sells or exposes for sale any article in such market or slaughters any animal in such slaughter-house, shall be punishable with fine which may extend to fifty rupees and, in the case of a continuing offence, with an additional fine which may extend to five rupees for every day after the first during which the offence is continued.

206. (1) Where, in the opinion of the Cantonment Authority, it is necessary on sanitary grounds so to do, it may, by public notice prohibit for such period not exceeding one month, as may be specified in the notice, or for such further period not exceeding one month as it may specify by a like notice the use of any private slaughter-house specified in the notice, or the slaughter therein of any animal of any description so specified.

(2) A copy of every notice issued under sub-section (1) shall be conspicuously posted in the slaughter-house to which it relates.



207. (1) Any servant of a Cantonment Authority authorised by order in writing in the this behalf by the President of the Board if any, or the Health Officer, may, if he has reason to believe that any animal has been, is being, or is about to be slaughtered in any place in contravention of the provisions of this Chapter, enter into and inspect any such place at any time, whether by day or by night.

(2) Every such order shall specify the place to be entered and the locality in which the same is situated and the period, which shall not exceed seven days for which the order is to remain in force.

208. A Cantonment Authority may with the approval of the Local Government, make bye-laws consistent with this Act to provide for all or any of the following matters namely :—

- (a) the days on, and the hours during, which any private market or private slaughter-house may be kept open for use ;
- (b) the regulation of the design, ventilation and drainage of such markets and slaughter-houses, and the material to be used in the construction thereof ;
- (c) the keeping of such markets and slaughter-houses and lands and buildings appertaining thereto in a clean and sanitary condition, the removal of filth and refuse therefrom and the supply therein of pure water and of a sufficient number of latrines and urinals for the use of persons using or frequenting the same ;
- (d) the manner in which animals shall be stalled at a slaughter-house ;  
the manner in which animals may be slaughtered ;
- (f) the disposal or destruction of animals offered for slaughter which are, from disease or any other cause, unfit for human consumption ; and
- (g) the destruction of carcase which from disease or any other cause are found after slaughter to be unfit for human consumption.

#### *Trades and Occupations.*

209. (1) A Cantonment Authority may provide suitable places for the exercise by washerman of their calling, and may require payment of such fees for the use thereof as it think fit.

(2) Where the Cantonment Authority has provided such places as aforesaid it may, by public notice, prohibit the washing of clothes by washermen at any other place in the cantonment :

Provided that such prohibition shall not be deemed to apply to the washing by a washerman of his own clothes or of the clothes of any other person who is an occupier of the place at which they are washed.

(3) Whoever contravenes any prohibition contained in a notice issued under sub-section (2) shall be punishable with fine which may extend to twenty rupees.

Licences required for carrying on of certain occupations. 210. (1) No person of any of the following classes, namely :—

- (a) butchers and vendors of poultry, game or fish ;
- (b) persons keeping pigs for profit, and dealers in the flesh of pigs which have been slaughtered in India ;
- (c) persons keeping milch cattle or milch goats for profit ;
- (d) persons keeping for profit any animals other than pigs, milch cattle or milch goats ;
- (e) dairymen, buttermen and makers and vendors of ghee ;
- (f) makers of bread, biscuits or cake, and vendors of bread, biscuits or cake made in India ;
- (g) vendors of fruit or vegetables ;
- (h) manufacturers of aerated or other potable waters or of ice or ice-cream, and vendors of the same ;
- (j) vendors of any medicines, drugs or articles of food or drink for human consumption (other than the flesh of pigs, milk, butter, bread, biscuits, cake, fruit, vegetables, aerated or other potable waters or ice or ice-cream) which are of a perishable nature ;
- (k) vendors of water to be used for drinking purposes ;
- (l) washerman ;
- (m) dealers in hay, straw, wood, charcoal or other inflammable material ;
- (n) dealers in fire-works, kerosene oil, petroleum or any other inflammable oil or spirit ;
- (o) tanners and dyres ;
- (p) persons carrying on any trade or occupation from which offensive or unwholesome smells arise ;
- (q) vendors of wheat, rice and other grain or of flour ; and
- (r) makers and vendors of sugar or sweet-meats ;

shall carry on his trade, calling or occupation in any part of a cantonment unless he has applied for and obtained a licence in this behalf from the Cantonment Authority.

(2) A license granted under sub-section (1) shall be valid for one year, and the grant of such license shall not be withheld by the Cantonment Authority unless it has reason to believe that the business which it is intended to establish or maintain would be offensive or dangerous to the public,

(3) Notwithstanding anything contained in sub-section (1),—

- (a) no person who was, at the commencement of this Act, carrying on his trade, calling or occupation in any part of a cantonment shall be bound to apply for a licence for carrying on such trade or occupation in that part until he has received from the Cantonment Authority not less than three months' notice in writing of his obligation to do so, and if the Cantonment Authority refuses to grant him a licence, it shall

pay compensation for any loss incurred by reason of such refusal ;

- (b) no person shall be required to take out a licence for the sale or storage of petroleum or for the sale or possession for sale of poisons or white arsenic in any case in which he is required to take out a licence for such sale, storage or possession for sale by or under the Indian Petroleum Act, 1899,\* or the Poisons Act, 1919† •

(4) The Cantonment Authority may charge for the grant of licences under this section such fees as it may fix with the previous sanction of the Local Government.

211. A licence granted to any person under section 210 shall specify the part of the cantonment in which the licensee may carry on his trade, calling or occupation, and may regulate the hours and manner of transport within the cantonment of any specified articles intended for human consumption, and may contain any other conditions which the Cantonment Authority thinks fit to impose in accordance with by-laws made under this Act.

Conditions which may be attached to licenses.

#### *General provisions.*

212. If a Cantonment Authority is satisfied that any place used under a licence granted under this Chapter is a nuisance or is likely to be dangerous to life, health or property, the Cantonment Authority may, by notice in writing, require, the owner, lessee or occupier thereof to discontinue the use of such place or to effect such alterations, additions, or improvements as will, in the opinion of the Cantonment Authority, render it no longer a nuisance or dangerous.

Power to vary licence.

213. Whoever carries on any trade, calling or occupation for which a licence is required without obtaining a licence therefor or while the licence therefor is suspended or after the same has been cancelled, and and whoever, after receiving a notice under section 212, uses or allows to be used any building or place in contravention thereof, shall be punishable with fine which may extend to two hundred rupees and, in the case of a continuing offence, with an additional fine which may extend to forty rupees for every day after the first during which the offence is continued.

Carrying on trade, etc., without licence or in contravention of section 212.

214. Whoever feeds or allows to be fed on filthy or deleterious substances any animal, which is kept for the purpose of supplying milk to, or which is intended to be used as food for, the inhabitants of a cantonment or allows it to graze in any place in which grazing has, for sanitary reasons been prohibited by public notice by the Cantonment Authority, shall be punishable with fine which may extend to fifty rupees.

Feeding animals on dirt, etc.

\* VIII of 1899.

† XII of 1919.

*Entry, Inspection and Seizure.*

Powers of entry and seizure. 215. (1) The President or the Vice-President of a Board, the Executive Officer, the Health Officer, Assistant Health Officer, or any other officer or servant of a Cantonment Authority authorised by it in writing in this behalf,—

(a) may at any time enter into any market, building, shop, stall or other place in the cantonment for the purpose of inspecting, and may inspect, any animals, article or thing intended for human food or drink or for medicine, whether exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale, or of preparation for sale, or any utensil or vessel for preparing, manufacturing or containing any such article, or thing, and may enter into and inspect any place used as a slaughter-house and may examine any animal or article therein ;

(b) may seize any such animal, article or thing which appears to him to be diseased or unwholesome or unfit for human food or drink or medicine, as the case may be, or to be adulterated or to be not what it is represented to be, or any such utensil or vessel which is of such a kind or in such a state as to render any article prepared, manufactured or contained therein unwholesome or unfit for human food or for medicine, as the case may be.

(2) Any article seized under sub-section (1) which is of a perishable nature may, under the orders of the Health Officer or the Assistant Health Officer, forthwith be destroyed if, in his opinion, it is diseased, unwholesome or unfit for human food, drink or medicine, as the case may be.

(3) Every animal, article, utensil vessel or other thing seized under sub-section (1) shall, if it is not destroyed under sub-section (2), be taken before a Magistrate.

(4) The owner or person in possession, at the time of seizure under sub-section (1), of any animal or carcase which is diseased or of any article or thing which is unwholesome or unfit for human food, drink or medicine, as the case may be, or is adulterated or is not what it is represented to be or of any utensil or vessel which is of such kind or in such state as is described in clause (b) of sub-section (1), shall be punishable with fine which may extend to one hundred rupees, and the animal, article, utensil, vessel or other thing shall be liable to be forfeited to the Cantonment Authority or to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for the preparation of food, drink or medicine, as the case may be.

*Explanation I.*—If any such article, having been exposed or stored in, or brought to, any place mentioned in sub-section (1) for sale as ghee, contains any substance not exclusively derived from milk, it shall be deemed, for the purposes of this section, to be an article which is not what it is represented to be.

*Explanation II.*—Meat subject to the process of blowing shall be deemed to be unfit for human food.

*Explanation III.*—The article of food or drink shall not be deemed to be other than what it is represented to be merely by reason of the fact that there has been added to it some substance not injurious to health :

Provided that—

- (a) such substance has been added to the article because the same is required for the preparation or production thereof as an article of commerce in a state fit for carriage or consumption and not fraudulently to increase the bulk, weight or measure of the food or drink or conceal the inferior quality thereof, or
- (b) in the process of production, preparation or conveyance of such article of food or drink, the extraneous substance has unavoidably become intermixed therewith, or
- (c) the owner or person in possession of the article has given sufficient notice by means of a label distinctly and legibly written or printed thereon or therewith, or by other means of a public description, that such substance has been added, or
- (d) such owner or person has purchased the article with a written warranty that it was of a certain nature, substance and quality and had no reason to believe that it was not of such nature, substance and quality, and has exposed it or hawked it about or brought it for sale in the same state and by the same description as that in and by which he purchased it.

### *Import of Cattle and flesh.*

216. (1) No person shall, without the permission in writing of the Cantonment Authority, bring into a cantonment any animal intended for human consumption, or the flesh of any animal slaughtered outside the cantonment otherwise than in a slaughter-house maintained by the Government or the Cantonment Authority.

(2) Any animal or flesh brought into a Cantonment in contravention of sub-section (1) may be seized by the Executive Officer or by any servant of the Cantonment Authority and sold or otherwise disposed of as the Cantonment Authority may direct, and, if it is sold, the sale-proceeds may be credited to the cantonment fund.

(3) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may be extended to fifty rupees.

-(4) Nothing in this section shall be deemed to apply to cured or preserved meat or to animals driven or meat carried through a cantonment for consumption outside thereof, or to meat brought into a cantonment by any person for his immediate domestic consumption :

Provided that the Cantonment Authority may, by public notice, direct that the provisions of this section shall apply to cured or preserved meat of any specified description or brought from any specified place.

## CHAPTER XIII.

## WATER SUPPLY, DRAINAGE AND LIGHTING.

*Water Supply.*

217. (1) In every cantonment where a sufficient supply of pure water for domestic use does not already exist the Cantonment Authority shall provide or arrange for the provision of such a supply.

Maintenance of water-supply.

(2) The Cantonment Authority shall, as far as possible, make adequate provision that such supply shall be continuous throughout the year, and that the water shall be at all times pure and fit for human consumption.

218 (1) The Cantonment Authority may, with the previous sanction of the Local Government, by public notice, declare any lake, stream, spring, well, tank reservoir or other source whether within or without the limits of the cantonment (other than a source of water-supply under the control of the Military Works Services or the Public Works Department) from which water is or may be made available for the use of the public in the cantonment to be a source of public water-supply.

(2) Every such source shall be under the control of the Cantonment Authority.

219. The Cantonment Authority may by notice in writing, require the owner or any person having the control of any source of public water-supply which is used for drinking purposes—

Power to require maintenance or closing of private source of public drinking water-supply.

(a) to keep the same in good order and to clear it from time to time of silt, refuse and decaying vegetation, or

(b) to protect the same from contamination in such manner as the Cantonment Authority may direct, or

(c) if the water therein is proved to the satisfaction of the Cantonment Authority to be unfit for drinking purposes, to take such measures as may be specified in the notice to prevent the public from having access to or using such water :

Provided that, in the case of a well, such person as aforesaid may instead of complying with the notice, signify in writing his desire to be relieved of all responsibility for the proper maintenance of the well and his readiness to place it under the control and supervision of the Cantonment Authority for the use of the public, and if he does so he shall not be bound to carry out the requisition and the Cantonment Authority shall undertake the control and supervision of the well,

220. (1) The Cantonment Authority may permit the owner, lessee or occupier of any building or land to connect the building or land with a source of public water supply by means of communication pipes of such size and description as it may prescribe for the purpose of obtaining water for domestic use.

(2) The occupier of every building so connected with the water-supply shall be entitled to have for domestic use in return for the water tax, if any, such quantity of water as the Cantonment Authority may determine.

(3) All water supplied in excess of the quantity to which such supply is limited under sub-section (2) and, in a cantonment in which a water tax is not imposed all water supplied under this section shall be paid for at such rate as the Cantonment Authority may fix.

(4) The supply of water for domestic use shall not be deemed to include any supply—

- (a) for animals or for washing vehicles where such animals or vehicles are kept for sale or hire ;
- (b) for any trade, manufacture or business ;
- (c) for fountains swimming baths or any ornamental or mechanical purpose ;
- (d) for gardens or for purposes of irrigation ;
- (e) for making or watering roads or paths ; or
- (f) building purposes.

221. If it appears to the Cantonment Authority that any building or land in the cantonment is without a proper supply of pure water, the Cantonment Authority may, by notice in writing, require the owner, lessee or occupier of the building or land to obtain from a source of public water-supply such quantity of water as is adequate to the requirements of the persons usually occupying or employed upon the building or land, and to provide communication pipes of the prescribed size and description, and to take all necessary steps for the above purposes.

222. (1) The Cantonment Authority may, by agreement, supply from any source of public water-supply, the owner, lessee or occupier of any building or land in the cantonment with any water for any purpose, other than a domestic purpose, on such terms and conditions, consistent with this Act and the rules and bye-laws made thereunder, as may be agreed upon between the Cantonment Authority and such owner, lessee or occupier.

(2) The Cantonment Authority may withdraw such supply or curtail the quantity thereof at any time if it should appear necessary to do so for the purpose of maintaining sufficient supply of water for domestic use by inhabitants of the cantonment.

223. Notwithstanding any obligation imposed on Cantonment Authorities under this Act, a Cantonment Authority shall not be liable to any forfeiture penalty or damages for failure to supply water or for curtailing the quantity thereof in the failure or curtailment, as the case may be.

may be, arises from accident or from drought or other unavoidable cause unless, in the case of an agreement for the supply of water under section 222, the Cantonment Authority has made express provision for forfeiture, penalty or damages in the event of such failure or curtailment.

224. Notwithstanding anything hereinbefore contained or contained in any agreement under section 222, the supply of water by a Cantonment Authority to any building or land shall be, and shall be deemed to have been, granted subject to the following conditions, namely :—

- (a) the owner, lessee or occupier of any building or land in or on which water supplied by the Cantonment Authority is wasted by reason of the pipes, drains or other works being out of repair shall, if he has knowledge thereof, give notice of the same to such officer as the Cantonment Authority may appoint in this behalf ;
- (b) the Executive Officer or any other officer or servant of the Cantonment Authority authorised by it in writing in this behalf may enter in to or on any premises supplied with water by the Cantonment Authority, for the purpose of examining all pipes, taps, works and fittings connected with the supply of water and of ascertaining whether there is any waste or misuse of such water ;
- (c) the Cantonment Authority may, after giving notice in writing, cut off the connection between any source of public water-supply and any building or land to which water is supplied for any purpose therefrom, or turn off such supply if—
  - (i) the owner or occupier of the building or land neglects to pay the water tax or other charges connected with the water-supply within one month from the date on which such tax or charge falls due for payment ;
  - (ii) the occupier refuses to admit the Executive Officer or other authorised officer or servant of the Cantonment Authority into the building or land for the purpose of making any examination or inquiry authorised by clause (b) or prevents the making of such examination or inquiry ;
  - (iii) the occupier wilfully or negligently misuses or causes waste of water ;
  - (iv) the occupier wilfully or negligently injures or damages his meter or any pipe or tap conveying water from the water-works ;
  - (v) any pipes, taps works or fittings connected with the supply of water to the building or land are found on examination by the Executive Officer, to be out of repair to such an extent as to cause a waste of water ;
- (d) the expense of cutting off the connection or of turning off the water in any case referred to in clause (c) shall be paid by the owner or occupier of the building or land ;
- (e) no action taken under or in pursuance of clause (c) shall relieve



any person from any penalty or liability which he may otherwise have incurred.

225. A Cantonment Authority may allow any person not residing within the limits of the cantonment to take or be supplied with water from any source of public water-supply on such terms as it may prescribe, and may at any time withdraw or curtail such supply.

Penalty.

226. Whoever—

(a) uses for other than domestic purposes any water supplied by a Cantonment Authority for domestic use, or

(b) where water is supplied by agreement with a Cantonment Authority for specified purpose uses that water for any other purpose,

shall be punishable with fine which may extend to fifty rupees, and the Cantonment Authority shall be entitled to recover from him the price of the water misused.

*Water, Drainage and other Connection.*

Power of Cantonment Authority to lay wires, cable, wire, pipe drain, sewer or channel of any connections, etc.

227. A Cantonment Authority may carry any kind,—

(a) for the purpose of carrying out, establishing or maintaining any system of water-supply, lighting, drainage or sewerage, through, across, under or over any road or street, or any place laid out or intended as a road or street or, after giving reasonable notice in writing to the owner or occupier into, through, across, under or over any land or building, or up the side of any building, situated within the cantonment, or

(b) for the purpose of supplying water or of the introduction or distribution of outfall of water or for the removal or outfall of sewage after giving reasonable notice in writing to the owner or occupier, into, through, across, under or over any land or building or up the side of any building situated outside the cantonment ;

and may at all times do all acts and things which may be necessary or expedient for repairing or maintaining any such cable wire, pipe drain sewer or channel in an effective state for the purpose for which the same may be used or is intended to be used :

Provided that no nuisance shall be caused in excess of what is reasonably necessary for the proper execution of the work :

Provided, further, that compensation shall be payable to the owner or occupier for any damage sustained by him which is directly occasioned by the carrying out of any such operation.

228. In the event of any cable, wire, pipe, drain, sewer or channel being laid or carried above the surface of any land or through, over or up the side of any building, such cable, wire, pipe, drain, sewer or channel shall be so laid or carried as to interfere as little as

Wires, etc., laid above surface of ground.

possible with the rights of the owner or occupier to the due enjoyment of such land or building, and compensation shall be payable by the Cantonment Authority in respect of any substantial interference with the right to any such enjoyment.

**229.** No person shall, for any purpose whatsoever, without the permission of the Cantonment Authority, at any time make or cause to be made any connection or communication with any cable, wire, pipe, drain, sewer or channel constructed or maintained by, or vested in a Cantonment Authority.

Connection with main  
not to be made without  
permission.

**230.** A Cantonment Authority may prescribe the size of the ferrules to be used for the supply of gas, if any, and may establish meters or other appliances for the purpose of testing the quantity of any water, or the quantity or quality of any gas supplied to any premises by the Cantonment Authority.

Power to prescribe ferru-  
les and to establish meters,  
etc.

**231.** The ferrules, communication pipes, connections, meters, stand-pipes and all fittings thereon or connected therewith leading from water mains or from pipes, drains, sewers or channels into any house or land, to which water or gas is supplied by a Cantonment Authority, and the pipes, fittings and works inside any such house or within the limits of any such land, shall in all cases be excused subject to the inspection and to the satisfaction of the Cantonment Authority.

Power of inspection.

**232.** A Cantonment Authority may fix the charges to be made for the establishment by them or through their agency of communications from, and connections with, mains, or pipes for the supply of water, or gas, or for meter or other appliances for testing the quantity or quality thereof supplied, and may levy such charges accordingly.

Power to fix rates and  
charges.

#### *Application of this Chapter to Government Water Supplies.*

**233.** (1) Where in any cantonment there is a water-supply under the control of the Military Works Services or the public Works Department the Officer of the Military Works Services or of the Public Works Department, as the case may be, in charge of such water-supply (herein after in this section and in section 234 referred to as the Officer) may publish in the cantonment in such manner as he thinks fit a notice declaring that any lake, stream, spring, well, tank, reservoir or other source, whether within or without the limits of the cantonment (other than a source of public water-supply under the control of the Cantonment Authority) is a source of public water-supply and may, for the purpose of keeping any such source in good order or of protecting it from contamination or from use, require the Cantonment Authority to exercise any power conferred upon that Authority by section 219.

Government Water-supply.

(2) In the case of any water-supply such as is referred to in sub-section (1), the following provisions of this Chapter, namely, the provision of sections 220, 222, 223, 224, 226, 227, 228, 229, 230, 231 and 232 shall, as far as may be, be applicable in respect of the supply of

water to the cantonment, and for the purpose of such application references to the Cantonment Authority shall be construed as references to the Officer, and references to the Executive Officer or other officer or servant of the Cantonment Authority shall be construed as references to such person as may be authorised in this behalf by the Officer.

234. In any case in which the provisions of section 233 apply, the water-tax, if any, imposed in cantonment and Recovery of charges. all other charges arising out of the supply of water which may be imposed under the provisions of this Chapter as applied by section 233 shall be recovered by the Cantonment Authority, and all monies so recovered; or such proportion thereof as the Local Government may in each case determine, shall be paid by the Cantonment Authority to the Officer.

## CHAPTER XIV.

### REMOVAL AND EXCLUSION FROM CANTONMENT AND

#### SUPPRESSION OF SEXUAL IMMORALITY.

235. The Commanding Officer of a cantonment may, on receiving information that any building in the cantonment is used as a brothel or for purposes of prostitution, by order in writing setting forth the substance of the information received, summon the owner, lessee, tenant or occupier of the building to appear before him either in person or by an authorised agent, and, if the Commanding Officer of the cantonment is then satisfied as to the truth of the information, he may, by order in writing, direct the owner, lessee, tenant or occupier, as the case may be to discontinue such use of the building within such period as may be specified in the order.

236. (1) Whoever in a cantonment loiters for the purpose of prostitution or importunes any person to the commission of sexual immorality, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to two hundred rupees.

(2) No prosecution for an offence under this section shall be instituted except on the complaint of the person importuned, or of a military officer in whose presence the offence was committed, or of a member of the Military or Air Force Police, being employed in the cantonment and authorised in this behalf by the Commanding Officer of the cantonment, in whose presence the offence was committed, or of a police officer not below the rank of a sub-inspector who is employed in the cantonment and authorised in this behalf by the Commanding Officer of the cantonment.

237. If the Commanding Officer of a cantonment is, after such inquiry as he thinks necessary, satisfied that any person residing in or frequenting the cantonment is a prostitute or has been convicted of an offence under section 236, or of the abetment of such an offence, he may cause to be served on such person an order in writing requiring such person to remove from the cantonment within such time as may be specified in the order, and prohibiting such person from reentering it without the permission in writing of the Commanding Officer of the cantonment.

238. (1) A Magistrate of the first class, having jurisdiction in a cantonment, on receiving information that any person residing in or frequenting the cantonment —  
Removal and exclusion from cantonments of disorderly persons.

- (a) is a disorderly person who has been convicted more than once of gaming or who keeps or frequents a common gaming house, a disorderly drinking shop or a disorderly house of any other description, or
- (b) has been convicted more than once, either within the cantonment or elsewhere, of an offence punishable under Chapter XVII of the Indian Penal Code,\* or
- (c) has been convicted, either within the cantonment or elsewhere, of any offence punishable under section 156 of the Army Act,† or
- (d) has been ordered under Chapter VIII of the Code of Criminal Procedure, 1898,‡ either within the cantonment or elsewhere, to execute a bond for his good behaviour,

may record in writing the substance of the information received, and may issue a summons to such person requiring such person to appear and show cause why he should not be required to remove from the cantonment and be prohibited from re-entering it.

(2) Every summons issued under sub-section (1) shall be accompanied by a copy of the record aforesaid, and the copy shall be served along with the summons on the person against whom the summons is issued.

(3) The Magistrate shall, when the person so summoned appears before him, proceed to inquire into the truth of the information received and take such further evidence as he thinks fit, and if, upon such inquiry, it appears to him that such person is a person of any kind described in sub-section (1) and that it is necessary for the maintenance of good order in the cantonment that such person should be required to remove therefrom and be prohibited from re-entering the cantonment, the Magistrate shall report the matter to the Commanding Officer of the cantonment, and, if the Commanding Officer of the cantonment so directs, shall cause to be served on such person an order in writing requiring him to remove from the cantonment within such time as may be specified in the order

\* XLV of 1860.

† 44 & 45 Vict., c. 58.

‡ V of 1898.

and prohibiting him from re-entering it without the permission in writing of the Commanding Officer of the cantonment.

239. (1) If any person in a cantonment causes or attempts to cause Removal and exclusion or does any act which he knows is likely to cause from cantonment of sedi- disloyalty, disaffection or breaches of discipline tious person. amongst any portion of His Majesty's forces or is a person who, the Commanding Officer of the cantonment has reason to believe, is likely to do any such act, the Commanding Officer of the cantonment may make an order in writing setting forth the reasons for the making of the same and requiring such person to remove from the cantonment within such time as may be specified in the order and prohibiting him from re-entering it without the permission in writing of the Commanding Officer of the cantonment :

Provided that no order shall be made under this section against any person unless he has had a reasonable opportunity of being informed of the grounds on which it is proposed to make the order and of showing cause why the order should not be made.

(2) Every order made under sub-section (1) shall be sent to the Superintendent of Police of the district, who shall cause a copy thereof to be served on the person concerned.

(3) Upon the making of any order under sub-section (1), the Commanding Officer of the cantonment shall forthwith send a copy of the same to the Local Government.

(4) The Local Government may, of its own motion, and shall, on application made to it in this behalf within one month of the date of the order by the person against whom the order has been made, call upon the District Magistrate to make, after such inquiry as the Local Government may prescribe, a report regarding the justice of the order and the necessity therefor. At every such inquiry the person against whom the order has been made shall be given an opportunity of being heard in his own defence.

(5) The Local Government may, at any time after the receipt of a copy of an order sent under sub-section (3) or, where a report has been called for under sub-section (4), on receipt of that report, if it is of opinion that the order should be varied or rescinded, refer the case to the Governor General in Council, who shall pass such order thereon as he thinks fit.

(6) Any person who has been excluded from a cantonment by an order made under this section may, at any time after the expiry of one month from the date thereof, apply to the Officer Commanding-in-chief, the Command, for the rescission of the same and, on such application being made, the said Officer may, after making such inquiry, if any, as he thinks necessary, either reject the application or rescind the order.

240. Whoever—

Penalty.

(a) fails to comply with an order issued under this Chapter within the period specified therein, or, whilst an order prohibiting him from re-entering a cantonment without permission is in force re-enters the cantonment without such permission, or

- (b) knowing that any person has, under this Chapter, been required to remove from the cantonment and has not obtained the requisite permission to re-enter it, harbours or conceals such person in the cantonment.

shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing offence, with an additional fine which may extend to twenty rupees for every day after the first during which he has persisted in the offence.

## CHAPTER XV.

### POWERS PROCEDURE, PENALTIES AND APPEALS.

#### *Entry and Inspection.*

241. It shall be lawful for the president or the Vice President of a Board, or the Executive Officer, or the Health Officer or Assistant Health Officer or any person specially authorised by the Health Officer or the Assistant Health Officer, or for any other person authorised by general or special order of a Cantonment Authority in this behalf, to enter into or upon any building or land with or without assistants or workmen in order to make any inquiry, inspection, measurement, valuation or survey, or to execute any work, which is authorised by or under this Act or which it is necessary to make or execute for any of the purposes or in pursuance of any of the provisions of this Act or of any rule, byelaw or order made thereunder :

Provided that nothing in this section shall be deemed to confer upon any person any power such as is referred to in section 207 or section 215 or to authorise the conferment upon any person of any such power.

242. With the previous sanction of the President, any member of a Board may inspect any work or institution constructed or maintained, in whole or part at the expense of the Board, and may register, book, accounts or other document belonging to, or in the possession of, the Board.

243. (1) A Cantonment Authority may, by general or special order, authorise any person—  
Power of inspection. etc.

- (a) to inspect any drain, privy, latrine, urinal, cesspool, pipe, sewer or channel in or on any building or land in the cantonment, and, in his discretion, to cause the ground to be opened for the purpose of preventing or removing any nuisance arising from the drain, privy, latrine, urinal, cesspool, pipe, sewer or channel, as the case may be ;

- (b) to examine works under construction in the cantonment, to

take levels or to remove, test, examine, replace or read any meter.

(2) If, on such inspection, the opening of the ground is found to be necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building, but if it is found that no nuisance exists or but for such opening would have arisen, the ground or portion of any building, drain or other work opened, injured or removed for the purpose of such inspection shall be filled in, reinstated, or made good, as the case may be, by the Cantonment Authority.

244. (1) The Executive Officer of a cantonment may, with or without assistants or workmen, enter on any land within fifty yards of any work authorised by or under this Act for the purpose of depositing thereon any soil, gravel, stone or other materials, or of obtaining access to such work, or for any other purpose connected with the carrying on of the same.

(2) The Executive Officer shall, before entering on any land under sub-section (1), give the occupier, or, if there is no occupier, the owner not less than three days' previous notice in writing of his intention to make such entry, and shall state the purpose thereof, and shall, if so required by the occupier or owner, fence off so much of the land as may be required for such purpose.

(3) The Executive Officer shall, in exercising any power conferred by this section, do as little damage as may be, and compensation shall be payable by the Cantonment Authority to the owner or occupier of such land, or to both, for any such damage whether permanent or temporary.

245. It shall be lawful for any person, authorised by or under this Act to make any entry into any place, to open or cause to be opened any door, gate or other barrier—

(a) if he considers the opening thereof necessary for the purpose of such entry ; and

(b) if the owner or occupier is absent, or being present refuses to open such door, gate or barrier.

246. Save as otherwise expressly provided in this Act, no entry authorised by or under this Act shall be made except between the hours of sunrise and sunset.

Entry to be made in the day time.

247. Save as otherwise expressly provided in this Act, no building or land shall be entered without the consent of the occupier, or if there is no occupier, of the owner thereof, and no such entry shall be made without giving the said occupier or owner, as the case may be, not less than four hours' written notice of the intention to make such entry :

Owner's consent, ordinarily to be obtained.

Provided that no such notice shall be necessary if the place to be inspected is a stable for horses or a shed for cattle, or a latrine, privy or urinal, or a work under construction.

248. When any place used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious usages of the occupants of the place entered, and no apartment in the actual occupancy of a female shall be entered or broken open until she has been informed that she is at liberty to withdraw and every reasonable facility has been afforded to her for withdrawing.

249. Whoever obstructs or molests any person employed by a Cantonment Authority, who is not a public servant within the meaning of section 21 of the Indian Penal Code\* or any person with whom the Cantonment Authority has lawfully contracted, in the execution of his duty or of anything which he is empowered or required to do by virtue or in consequence of any of the provisions of this Act or of any rule, bye-law or order made thereunder, or in fulfilment of his contract, as the case may be, shall be punishable with fine which may extend to one hundred rupees.

*Powers and Duties of Police Officers.*

250. Any member of the police force employed in a cantonment may, without a warrant, arrest any person committing in his view a breach of any of the provisions of this Act which are specified in Schedule IV :

Provided that—

(a) in the case of the breach of any such provision as is specified in Part B of Schedule IV, no person shall be so arrested who consents to give his name and address, unless there is reasonable ground for doubting the accuracy of the name or address so given, the burden of proof of which shall lie on the arresting officer, and no person so arrested shall be detained after his name and address have been ascertained ; and

(b) no person shall be so arrested for an offence under section 236 except—

(i) at the request of the person importuned or of a military officer in whose presence the offence was committed ; or

(ii) by or at the request of a member of the Military or Air Force Police, who is employed in the cantonment and authorised in this behalf by the Commanding Officer of the cantonment, and in whose presence the offence was committed or by or at the request of any police officer not below the rank of a sub-inspector who is employed in the cantonment and authorised in this behalf by the Commanding Officer of the cantonment.

251. It shall be the duty of all police officers to give immediate information to the Cantonment Authority of the commission of any offence against the provisions of this Act or of any rule or bye-law made thereunder, and to assist all cantonment officers and servants in the exercise of their lawful authority.



*Notices.*

252. Where any notice, order or requisition made under this Act or any rule or bye-law made thereunder requires anything to be done for the doing of which no time is fixed in this Act or in the rule or bye-law, the notice, order or requisition shall specify a reasonable time for doing the same.

253. Every notice, order or requisition issued by a Cantonment Authority under this Act or any rule or bye-law made thereunder shall be signed—  
 Authentication and validity of notices issued by Cantonment Authority.

(a) where there is a Board, either by the President of the Board or by the Executive Officer, or, where there is no Board, by the Executive Officer ; or

(b) by the members of any committee especially authorised by the Cantonment Authority in this behalf.

254. (1) Every notice, order or requisition issued under this Act or any rule or bye-law made thereunder shall, save as otherwise expressly provided, be served or presented—  
 Service of notice, etc.

(a) by giving or tendering the notice, order or requisition, or sending it by post, to the person for whom it is intended ; or

(b) if such person cannot be found, by affixing the notice, order or requisition on some conspicuous part of his last known place of abode or business, if within the cantonment, or by giving or tendering the notice, order or requisition to some adult male member or servant of his family, or by causing it to be affixed on some conspicuous part of the building or land, if any, to which it relates.

(2) When any such notice, order or requisition is required or permitted to be served upon an owner, lessee or occupier of any building or land, it shall not be necessary to name the owner, lessee or occupier therein, and the service thereof shall, save as otherwise expressly provided, be effected either—

(a) by giving or tendering the notice, order or requisition, or sending it by post, to the owner, lessee or occupier, or, if there are more owners, lessees or occupiers than one, on any one of them ; or

(b) if no such owner, lessee or occupier can be found, by giving or tendering the notice, order or requisition to the authorised agent, if any, of any such owner, lessee or occupier, or to an adult male member or servant of the family of any such owner, lessee or occupier, or by causing it to be affixed on some conspicuous part of the building or land to which it relates.

(3) When the person on whom a notice, order or requisition is to be served is a minor, service upon his guardian or upon an adult, male member or servant of his family shall be deemed to be service upon the minor.

255. Every notice which by or under this act, is to be given Method of giving or served as a public notice or as a notice which notice. is not required to be given to any individual therein specified shall save as otherwise expressly provided be deemed to have been sufficiently given or served if a copy thereof is affixed in such conspicuous part of the office of the cantonment Authority, or in such other public place, during such period, or is published in such local newspaper or in such other manner, as the Cantonment Authority may direct.

256. In the event of non-compliance with the terms of any notice, Powers of Cantonment Authority in case of non-compliance with notice, etc. order or requisition issued to any person under this Act, or any rule or by-laws made thereunder requiring such person to execute any work or to do any act, it shall be lawful for the Cantonment Authority, whether or not the person in default is liable to punishment for such default or has been prosecuted or sentenced to any punishment therefor, after giving notice in writing to such person, to take such action or such steps as may be necessary for the completion of the act or work required to be done or executed by him, and all the expenses incurred on such account shall be recoverable by the Cantonment Authority.

#### *Recovery of Money.*

257. (1) If any such notice as is referred to in section 256 has been Liability of occupier to given to any person in respect of property of pay in default of owner. which he is the owner, the Cantonment Authority may require any occupier of such property or of any part thereof to pay to it, instead of to the owner, any rent payable by him in respect of such property as it falls due, up to the recoverable from the owner under section 256:

Provided that, if the occupier, on application made to him by the Cantonment Authority refuses truly to disclose the amount of his rent or the name or address of the person to whom it is payable the Cantonment Authority may recover from the occupier the whole amount recoverable under section 256.

(2) Any amount recovered from an occupier instead of from an owner under sub-section (1) shall, in the absence of any contract between the owner and the occupier to the contrary, be deemed to have been paid to the owner.

258. (1) Where any person by reason of his receiving the rent of im- Relief to agents and moveable property as an agent or trustee or of trustees. his being as an agent or trustee the person who would receive the rent if the property were let to a tenant, would under this Act be bound to discharge any obligation imposed on the owner of the property for the discharge of which money is required he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default might have, had funds in his hands belonging to the owner sufficient for the purpose.

(2) The burden of proving any fact entitling an agent or trustee to relief under sub-section (1) shall lie upon him.

(3) Where any agent or trustee has claimed and established his right to relief under this section, the Cantonment Authority may, by notice in writing, require him to apply to the discharge of such obligation as aforesaid the first monies which may come to his hands on behalf, or for the use, of the owner, and, on failure to comply with the notice, he shall be deemed to be personally liable to discharge the obligation.

259. All money recoverable by a Cantonment Authority under this Method of of recovery. Act shall, save as otherwise expressly provided, be recoverable either by suit or, on application to a Magistrate, by the distress and sale of the moveable property of the person from whom it is recoverable, and if payable by the owner of any property as such, it shall, until it is paid, be a charge on the property.

#### *Committees of Arbitration.*

260. In the event of any disagreement as to the liability of a Cantonment Authority to pay any compensation under Application for a Committee of Arbitration. this Act, or as to the amount of any compensation so payable, the person claiming such compensation may apply to the Cantonment Authority for the reference of the matter to a Committee of Arbitration and the Cantonment Authority shall forthwith proceed to convene a Committee of Arbitration to determine the matter in dispute.

261. When a Committee of Arbitration is to be convened, the Cantonment Authority shall cause a public notice to be Procedure for convening Committee of Arbitration. published stating the matter to be determined and shall forthwith send copies of the order to the District Magistrate, and to the other party concerned, and shall, as soon as may be nominate such members of the Committee as it is entitled to nominate under section 262, and, by notice in writing, call upon the other persons who are entitled to nominate a member or members of the Committee to nominate such member or members in accordance with the provisions of that section.

262. (1) Every Committee of Arbitration shall consist of five members, Constitution of Committee of Arbitration. namely:—

(a) a Chairman who shall be a person not in the service of the Government or the Cantonment Authority and who shall be nominated by the Commanding Officer of the cantonment ;

(b) two persons nominated by the Cantonment Authority ; and

(c) two persons nominated by the other party concerned, who shall be persons liable to pay taxes in the Cantonment and ordinarily resident therein or in the immediate vicinity thereof.

(2) If the Cantonment Authority or the other party concerned or the Commanding Officer of the Cantonments fails within seven days of the date of issue of the notice referred to in section 261 to make any nomina-

tion which it or he is entitled to make or, if any member who has been so nominated neglects or refuses to act and the Cantonment Authority or other person by whom such member was nominated fails to nominate another member in his place within seven days from the date on which it or he may be called upon to do so by the District Magistrate the District Magistrate shall forthwith appoint a member or members, as the case may be, to fill the vacancy or vacancies.

263. (1) No person who has a direct interest in the matter under reference, or whose services are not immediately available for the purposes of the Committee, shall be nominated a member of a Committee of Arbitration

No person to be nominated who has direct interests or whose services are not immediately available.

(2) If in the opinion of the District Magistrate, any person who has been nominated has a direct interest in the matter under reference, or is otherwise disqualified for nomination or if the services of any such person are not immediately available as aforesaid, and if the Cantonment Authority or other person by whom any such person was nominated fails to nominate another member within seven days from the date on which it or he may be called upon to do so by the District Magistrate, such failure shall be deemed to constitute a failure to make a nomination within the meaning of section 262.

264. (1) When a Committee of Arbitration has been duly constituted Meeting and powers of the Cantonment Authority shall, by notice in Committees of Arbitration. writing inform each of the members of the fact, and the Committee shall meet as soon as may be thereafter.

(2) The Chairman of the Committee shall fix the time and place of meetings, and shall have power to adjourn any meeting from time to time as may be necessary.

(3) The Committee shall receive and record evidence, and shall have power to administer oaths to witness, and, on requisition in writing signed by the Chairman of the Committee, the District Magistrate shall issue the necessary processes, for the attendance of witness and the production of documents required by the Committee, and may enforce the said processes as if they were processes for attendance or production before himself.

265. (1) The decision of every Committee of Arbitration shall be in accordance with the majority of votes taken at a meeting of which the Chairman and at least three of the other members are present.

Decisions of Committees of Arbitration.

(2) If there is not a majority of votes in favour of any proposed decision, the opinion of the Chairman shall prevail.

(3) The decision of a Committee of Arbitration shall be final and shall not be questioned in any Court.

#### *Prosecutions.*

266. Save as otherwise expressly provided in this Act, no Court shall proceed to the trial of any offence made punishable by or under this Act, other than an offence specified in Schedule IV, except on the complaint of, or upon information

Prosecutions.

received from the Cantonment Authority concerned or a person authorised by the Cantonment Authority by a general or special order in this behalf.

267. (1) A Cantonment Authority, or any person authorised by it, by general or special order in this behalf, may, either before or after the institution of the proceedings, compound any offence made punishable by or under this Act other than an offence under Chapter XIV :

Provided that no offence shall be compoundable which is committed by failure to comply with a notice, order or requisition issued by or on behalf of the Cantonment Authority, unless and until the same has been complied with in so far as compliance is possible.

(2) Where an offence has been compounded the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

### *General Penalty Provisions.*

268. Whoever in any case in which a penalty is not expressly provided by this Act, fails to comply with any notice, or requisition issued under any provision thereof or otherwise contravenes any of the provisions of this Act, shall be punishable with fine which may extend to two hundred rupees, and in the case of a continuing failure or contravention, with an additional fine which may extend to twenty rupees for every day after the first during which he has persisted in the failure or contravention.

269. Where any person to whom a licence has been granted under this Act or any agent or servant of such person commits a breach of any of the conditions thereof or of any bye-law made under this act for the purpose of regulating the manner or circumstances in, or the conditions subject to which anything permitted by such license is to be or may be done, the Cantonment Authority, may without prejudice to any other penalty which may have been incurred under this Act, by order in writing cancel the license or suspend it for such period as it thinks fit:

Provided that no such order shall be made until an opportunity has been given to the holder of the licence to show cause why it should not be made.

270. Where any person has incurred a penalty by reason of having caused any damage to the property of a Cantonment Authority, he shall be liable to make good such damage, and the amount payable in respect of the damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted, and, on non-payment of such amount on demand the same shall be recovered by distress and sale of the moveable property of such person, and the Magistrate shall issue a warrant for its recovery accordingly.

*Limitation.*

271. No Court shall try any person for an offence made punishable by or under this Act, after the expiry of six months from the date of the commission of the offence, unless complaint in respect of the offence has been made to a Magistrate within the six months aforesaid.

*Suits.*

272. No suit or prosecution shall be entertained in any Court against any Cantonment Authority or authority appointed under sub-section (2) of section 10, or against any Commanding Officer of a cantonment, or against any member of a Board, or against any officer or servant of a Cantonment Authority, for anything in good faith done, or intended to be done, under this Act or any rule or bye-law made thereunder.

273. (1) No suit shall be instituted against any Cantonment Authority or against any member of a Board, or against any officer or servant of a Cantonment Authority in respect of any act done, or purporting to have been done, in pursuance of this Act or of any rule or bye-law made thereunder, until the expiration of two months after notice in writing has been left at the office of the Cantonment Authority, and, in the case of such member, officer or servant, unless notice in writing has also been delivered to him or left at his office or place of abode, and unless such notice states explicitly the cause of action, the nature of the relief sought the amount of compensation claimed, and the name and place of abode of the intending plaintiff, and unless the plaint contains a statement that such notice has been so delivered or left.

(2) If the Cantonment Authority, member, officer or servant has, before the suit is instituted, tendered sufficient amends to the plaintiff, the plaintiff shall not recover any sum in excess of the amount so tendered, and shall also pay all costs incurred by the defendant after such tender.

(3) No suit, such as is described in sub-section (1), shall unless it is an action for the recovery of immoveable property or for a declaration of title thereto, be instituted after the expiry of six months from the date on which the cause of action arises.

(4) Nothing in sub-section (1) shall be deemed to apply to a suit in which the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the institution of the suit or proceeding.

*Appeals and Revision.*

274. (1) Any person aggrieved by any order described in the second column of Schedule V may appeal to the authority specified in that behalf in the third column thereof.

(2) No such appeal shall be admitted if it is made after the expiry of the period specified in that behalf in the fourth column of the said Schedule.

(3) The period specified as aforesaid shall be computed in accordance with the provisions of the Indian Limitation Act, 1908, with respect to the computation of periods of limitation thereunder.

275. (1) Every appeal under section 274 shall be made by petition in writing accompanied by a copy of the order appealed against.

Petition of appeal.

(2) Any such petition may be presented to the authority which made the order against which the appeal is made, and that authority shall be bound to forward it to the appellate authority, and may attach thereto any report which it may desire to make by way of explanation.

276. On the admission of an appeal from an order, other than an order contained in a notice issued under clause (a) of section 137, section 140, section 176, or section 238, all proceedings to enforce the order and all prosecutions for any contravention thereof shall be held in abeyance pending the decision of the appeal, and, if the order is set aside on appeal, disobedience thereto shall not be deemed to be an offence.

Suspension of action pending appeal.

277. (1) Where an appeal from an order dismissing a servant of the Cantonment Authority whose salary is not less than one hundred rupees per mensem] has been disposed of by Officer Commanding the District, the servant so dismissed may, within thirty days from the date thereof, apply for revision of the decision to the Officer Commanding-in-Chief, the Command, whose decision thereon shall be final.

Revision.

(2) Where an appeal from an order made by the Cantonment Authority has been disposed of by the District Magistrate, the Cantonment Authority may, within thirty days from the date thereof, apply, through the Officer Commanding the District, to the Local Government, or to such authority as the Local Government may appoint in this behalf, for a revision of the decision.

(3) The provisions of this Chapter with respect to appeals shall apply, as far as may be, to applications for revision made under this section.

278. Save as otherwise provided in section 277, every order of an appellate authority shall be final.

Finality of appellate order.

279. No appeal shall be decided under this Chapter unless the appellant has been heard, or has had a reasonable opportunity of being heard in person or through a legal practitioner.

Right of appellant to be heard.

## CHAPTER XVI.

## RULES AND BYE-LAWS.

280. (1) The Governor General in Council may, after previous publication, make rules to carry the purposes and objects of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the manner in which, and the authority to which application for permission to occupy land belonging to Government in a cantonment is to be made ;
- (b) the authority by which such permission may be granted and the conditions to be annexed to the grant of any such permission ;
- (c) the appointment, control supervision, suspension, removal, dismissal and punishment of servants of Cantonment Authorities ;
- (d) the circumstances in which security shall be demanded from servants of Cantonment Authorities; and the amount and nature of such security ;
- (e) the grant of leave, absentee or acting allowance to servants of Cantonment Authorities ;
- (f) the creation and management of Provident Funds, and the circumstances in which, and the conditions subject to which contributions thereto shall be made from cantonment funds and by servants of Cantonment Authorities ;
- (g) the keeping of accounts by Cantonment Authorities and the manner in which such accounts shall be audited and published ;
- (h) the definition of the persons by whom, and the manner in which, money may be paid out of a cantonment fund ;
- (i) the preparation of estimates of income and expenditure by Cantonment Authorities and the definition of the persons by whom and the conditions subject to which such estimates may be sanctioned ;
- (j) the regulation of the procedure of Committees of Arbitration ; and
- (k) the prescribing of registers, statements and forms to be used and maintained by any authority for the purposes of this Act.

281. (1) A rule under section 280 may be made either generally for all cantonments or for the whole or any part of any one or more cantonments.

Supplemental provisions respecting rules.

(2) All rules so made shall be published in the Gazette of India and in such other manner if any, as the Governor General in Council may direct and on such publication shall have effect as if enacted in this Act.



**282.** Subject to the provisions of this Act and of the rules made thereunder, a Cantonment Authority may in addition to any bye-laws which it is empowered to make by any other provision of this Act, make bye-laws to provide for all or any of the following matters in the cantonment namely :—

- (1) the registration of births deaths and marriages, and the taking of a census ;
- (2) the enforcement of compulsory vaccination ;
- (3) the regulation of the collection and recovery of taxes, tolls and fees under this Act and the refund of taxes ;
- (4) the regulation or prohibition of any description of traffic in the streets ;
- (5) the manner in which vehicles standing, driven or propelled in the streets between sunset and sunrise shall be lighted ;
- (6) the seizure and confiscation of ownerless animals straying within the limits of the cantonment ;
- (7) the prevention and extinction of fire ;
- (8) the construction of scaffolding for building operations to secure the safety of the general public and of persons working thereon ;
- (9) the regulation in any manner not specifically provided for in this Act of the construction, alteration, maintenance, preservation, cleaning and repairs of drains, ventilation shafts, pipes waterclosets privies latrines, urinals cesspools and other drainage works ;
- (10) the regulation or prohibition of the discharge into, or deposit in, drains of sewage, polluted water and other offensive or obstructive matter ;
- (11) the regulation or prohibition of the stabling or herding of animals, or of any class of animals, so as to prevent danger to public health ;
- (12) the proper disposal of corpses, the regulation and management of burial and burning places and other places for the disposal of corpses, and the fees chargeable for the use of such places where the same are provided or maintained by Government or at the expense of the cantonment fund ;
- (13) the permission, regulation or prohibition of the use or occupation of any street or place by itinerant vendors or by any person for the sale of articles or the exercise of any calling or the setting up of any booth or stall, and the fees chargeable for such use or occupation ;
- (14) the regulation and control of encamping grounds, pounds, washing-places, serais, hotels, dak-bungalows, lodging-houses, boarding-houses, buildings let in tenements residential clubs, restaurants eatinghouses, cafes, refreshment rooms and places of public recreation, entertainment or resort ;
- (15) the regulation of the ventilation, lighting, cleansing drainage

and watersupply of the buildings used for the manufacture or sale of aerated or other potable waters and of butter, milk sweet-meats and other articles of food or drink for human consumption ;

- (16) the matters regarding which conditions may be imposed by licences granted under section 210 ;
- (17) the control and supervision of places where dangerous or offensive trades are carried on so as to secure cleanliness therein or to minimise any injurious, offensive or dangerous effects arising or likely to arise therefrom ;
- (18) the regulation of the erection of any enclosure, fence, tent awning or other temporary structure of whatsoever material or nature on any land situated within the cantonment ;
- (19) the laying out of streets, and the regulation and prohibition of the erection of buildings without adequate prohibition being made for the laying out and location of streets ;
- (20) the regulation of the use of public parks and gardens and other public places, and the protection of avenues, trees, grass and other appurtenances of streets and other public places ;
- (21) the regulation of the grazing of animals ;
- (22) the fixing and regulation of the use of public bathing and washing places ;
- (23) the regulation of the posting of bills and advertisements, and and of the position, size, shape or style of name-boards, sign-boards and sign-posts ;
- (24) the fixation of a method for the sale of articles whether by measure, weight, piece or any other method ;
- (25) the rendering necessary of licences within the cantonment—
  - (a) for persons working as job porters for the conveyance of goods
  - (b) for animals or vehicles let out on hire ;
  - (c) for the proprietors or drivers of vehicles, boats or other conveyance, or of animals, kept or plying for hire ; or,
  - (d) for persons impelling or carrying such vehicles or other conveyances ;
- (26) the prescribing of the fee payable for any licence required under clause (25), and of the conditions subject to which such licences may be granted, revised, suspended or withdrawn ;
- (27) the regulation of the charges to be made for the services of such job porters and of the hire of such animals, vehicles or other conveyances, and for the remuneration of persons impelling or carrying such vehicles or conveyances as are referred to in clause (25) ;
- (28) the regulation or prohibition, for purposes of sanitation or the

prevention of disease or the promotion of public safety or convenience, of any act which occasions or is likely to occasion a nuisance, and for the regulation or prohibition of which no provisions is made elsewhere by or under this Act ;

- (29) the circumstances and the manner in which owners of buildings or land in the cantonment, who are temporarily absent from, or are not resident in, the cantonment, may be required to appoint as their agents, for all or any of the purposes of this Act or of any rule or bye-law made thereunder, persons residing within or near the cantonment ;
- (30) the prevention of the spread of infectious or contagious diseases within the cantonment ;
- (31) the segregation in or the removal and exclusion from, the cantonment, or the destruction, of animals suffering or reasonably suspected to be suffering from any infectious or contagious disease ;
- (32) the supervision, regulation, conservation and protection from injury, contamination or trespass of sources and means of public water supply and of appliances for the distribution of water whether within or without the limits of the cantonment ;
- (33) the manner in which connections with water works may be constructed or maintained, and the agency which shall or may be employed for such construction and maintenance ;
- (34) the regulation of all matters and things relating to the supply and use of water including the collection and recovery of charges therefor and the prevention of evasion of the same ;
- (35) the maintenance of schools, and the furtherance of education generally ;
- (36) the regulation or prohibition of the cutting or destruction of trees or shrubs, or of the making of excavations, or of the removal of soil or quarrying, where such regulation or prohibition appears to the Cantonment Authority to be necessary for the maintenance of a water-supply, the preservation of the soil, the prevention of landslips or of the formation of ravines or torrents, or the protection of land against erosion, or against the deposit thereon of sand, gravel or stones ;
- (37) the rendering necessary of licences for the use of premises within the cantonment as stables or cowhouses or as accommodation for sheep, goats or fowls ;
- (38) the control of the use in the cantonment of mechanical whistles, sirens or trumpets ; and
- (39) generally for the regulation of the administration of the cantonment under this Act.

283. Any bye-law made by a Cantonment Authority under this Act

Penalty for breach of bye-laws. may provide that a contravention thereof shall be punishable—

- (a) with fine which may extend to one hundred rupees ; or
- (b) with fine which may extend to one hundred rupees and, in the case of a continuing contravention, with an additional fine which may extend to twenty rupees for every day during which such contravention continues after conviction for the first such contravention ; or
- (c) with fine which may extend to ten rupees for every day during which the contravention continues after the receipt of a notice from the Cantonment Authority by the person contravening the bye-law requiring such person to discontinue such contravention.

284. (1) Any power to make bye-laws conferred by this Act is conferred subject to the condition of the bye-laws being made after previous publication and of their not taking effect until they have been approved and confirmed by the Local Government and published in the local official Gazette.

Supplemental provisions regarding bye-laws.

(2) The Local Government in confirming a bye-law may make any change therein which appears to it to be necessary.

(3) The Local Government may, after previous publication of its intention, cancel any bye-law which it has confirmed, and thereupon the bye-law shall cease to have effect.

285. (1) A copy of all rules and bye-laws made under this Act shall be kept at the office of the Cantonment Authority and shall, during office hours, be open free of charge to inspection by any inhabitant of the cantonment.

Rules and bye-laws to be available for inspection and purchase.

(2) Copies of all such rules and bye-laws shall be kept at the office of the Cantonment Authority for sale to the public.

## CHAPTER XVII.

### SUPPLEMENTAL PROVISIONS.

286. The Local Government may, by notification in the Local official Gazette, and subject to any conditions as to compensation or otherwise which it thinks fit to impose, extend to any area beyond a cantonment and in the vicinity thereof, with or without restriction or modification any of the provisions of Chapters IX, X, XI, XII, XIII, XIV and XV or of any rule or bye-law made under this Act for the cantonment which relates to the subject-matter of any of those Chapters, and every enactment, rule or bye-law so extended shall thereupon apply to that area as if the area were included in the cantonment.

Extention of certain provisions of the Act and rules to places beyond cantonments.

287. (1) Paragraphs 2 and 3 of section 54, and sections 59, 107 and 123 of the Transfer of Property Act, 1882,\* with respect to the transfer of property by registered instrument, shall, on and from the commencement of this Act, extend to every cantonment.

(2) Where a cantonment has not been constituted a sub-district or district for the purpose of the Indian Registration Act, 1908,† under section 9 of that Act, the Registrar of the district in which the cantonment is situated shall cause a copy of such entries in Indexes Nos. I and II as relate to immoveable property within the cantonment to be forwarded to the Cantonment Authority annually or at such shorter intervals as the Local Government may prescribe.

288. No notice, order, requisition, licence, permission in writing or other such document issued under this Act shall be invalid merely by reason of any defect of form. Validity of notices and other documents.

289. A copy of any receipt, application, plan, notice, order or other document or of any entry in a register, in the possession of a cantonment Authority shall if duly certified by the legal keeper thereof or other person authorised by the Cantonment authority in this behalf, be admissible in evidence of the existence of the document or entry, and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which, the original document or entry would, if produced, have been admissible to prove such matters. Admissibility of document or entry as evidence.

290. No officer or servant of a Cantonment Authority shall, in any legal proceeding to which the cantonment Authority is not a party, be required to produce any register or document the contents of which can be proved under section 289 by a certified copy, or to appear as a witness to prove any matter or transaction recorded therein save by order of the Court made for special cause. Evidence by officer or servant of the cantonment Authority.

291. For the purposes of the Government Buildings Act, 1899,‡ cantonments and Cantonment Authorities shall be deemed to be municipalities and municipal authorities respectively. Application of Act IV of 1899

292. The enactments mentioned in Schedule VI are repealed to the extent specified in the fourth column thereof. Repeals,

Provided that licences and permits given under the Cantonments Act 1910,§ and in force at the commencement of this Act, shall be deemed to have been given under this Act.

\* IV of 1882.

† XVI of 1908.

‡ IV of 1899.

§ XV of 1910.

**SCHEDULE I.****NOTICE OF DEMAND.***(See section 91.)*

To

residing at

Take notice that the Cantonment Authority demands from  
the sum of \_\_\_\_\_ due from \_\_\_\_\_  
on account of \_\_\_\_\_ (here describe the property, occupa-  
tion, circumstance or thing in respect of which the sum is payable)  
leviable under \_\_\_\_\_ for the period of \_\_\_\_\_  
commencing on the \_\_\_\_\_ day of \_\_\_\_\_ 19 ,  
and ending on the \_\_\_\_\_ day of \_\_\_\_\_ 19 ,  
and that if, within thirty days from the service of this notice, the said  
sum is not paid to the Cantonment Authority at \_\_\_\_\_ or .  
sufficient cause for non-payment is not shown to  
the satisfaction of the Executive Officer, a warrant of distress will be  
issued for recovery of the same with costs.

Dated this

day of

19 .

(Signed)

*Executive Officer,  
Cantonment.*

**SCHEDULE II.****FROM OF WARRANT.***(See section 92.)*

(Here insert the name of the officer charged with the execution of the  
warrant.)

Whereas A. B. of \_\_\_\_\_ has not paid, and has not shown  
satisfactory cause for the non-payment of, the sum of \_\_\_\_\_  
due on account of \_\_\_\_\_ \* for the period of \_\_\_\_\_  
commencing on the \_\_\_\_\_ day of \_\_\_\_\_ 19 , and  
ending with the \_\_\_\_\_ day of \_\_\_\_\_ 19 , which sum is leviable  
under \_\_\_\_\_ ;

And whereas thirty days have elapsed since the service on him of  
notice of demand for the same;

\* (Here described the liability.)

**SCHEDULE V.**

( See section 274. )

**APPEALS FROM ORDERS.**

1	2	3	4
Sections.	Executive Orders.	Appellate Authority.	Time allowed for appeal.
126	Cantonment Authority's notice to repair, protect or enclose a building, wall or anything affixed thereto, or well, tank, reservoir, pool, depression or excavation.	Officer Commanding the District	Thirty days from service of notice.
134	Cantonment Authority's notice to fill up well, tank, etc., or to drain off or remove water.	Officer Commanding the district.	Thirty days from service of notice.
137	Cantonment Authority's notice to provide sufficient drainage, etc.	Officer Commanding the District.	Fifteen days from service of notice.
140	Cantonment Authority's notice requiring a building to be required or attended so as to remove sanitary defects.	Officer Commanding the District.	Thirty days from service of notice.
176	Order of Commanding Officer of cantonment, on report of Medical Officer, directing a person to remove from the cantonment and prohibiting him from re-entering it without permission.	Officer Commanding the District.	Thirty days from service of notice.
181	Cantonment Authority's refusal to sanction the erection or re-erection of a building.	Officer Commanding the District.	Thirty days from date of refusal.
185	Cantonment Authority's notice to alter or demolish a building.	Officer Commanding the district.	Thirty days from service of notice.

SCHEDULE V—*concl'd.*

1	2	3	4
Sections	Executive Order.	Appellate Authority.	Time allowed for appeal.
188	Cantonment Authority's notice to pull down or otherwise deal with a building newly erected or rebuilt without permission over a sewer, drain, culvert, water-course or water-pipe.	Officer Commanding the District.	Thirty days from service of notice.
206	Cantonment Authority's notice prohibiting or restricting the use of a slaughter-house.	Officer Commanding the District.	Twenty-one days from service of notice.
238	Magistrate's notice directing disorderly person to remove from cantonment and prohibiting him from re-entering it without permission.	District Magistrate.	Thirty days from service of notice.

## SCHEDULE VI.

## ENACTMENTS REPEALED.

(See section 292.)

Year.	No.	Short title.	Extent of repeal.
1910	XV	The Cantonments Act, 1910.	So much as has not been repealed.
1914	X	The Repealing and Amending Act, 1914.	So much of the First and Second Schedules as relates to the Cantonments Act, 1910.
1919	XVIII	The Repealing and Amending Act, 1919.	So much of the First Schedule as relates to the Cantonments Act, 1910.
,,	XXII	The Cantonments (Amendment) Act, 1919.	The whole.



# ACT No. III OF 1924

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 1st March, 1924,*

## **An Act to regulate the entry into and residence in British India of persons domiciled in other British Possessions.**

WHEREAS it is expedient to make provision for regulating the entry into and residence in British India of persons domiciled in the British Possessions on a basis of reciprocity; It is hereby enacted as follows :—

Short title, commencement and extent.	1. (1) This Act may be called the Immigration into India Act, 1924.
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(2) It shall come into force on such date as the Governor General in Council may notify in the Gazette of India.

(3) It shall extend to the whole of British India including British Baluchistan.

Definitions.	2. In this Act, unless there is anything repugnant in the subject or context,—
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(a) "British Possession" means any part of His Majesty's Dominions other than British India, the United Kingdom and Ireland, and includes Protectorates and territories which are or may be administered by a Dominion as a mandatory on behalf of the League of Nations

(b) "entry" includes landing at any Port in British India during the period of the ship's stay on her way to a destination outside British India.

3. The Governor General in Council may make rules for the purpose of securing that persons not being of Indian origin domiciled in any British Possession, shall have no greater rights and privileges, as regards entry into and residence in British India, than are accorded by the law and administration of such Possession to persons of Indian domicile.

4. The Governor General in Council may without prejudice to the generality of the powers contained in section 3 of this Act, make rules—

(a) to provide for the establishment of a suitable agency to administer the rules and to define its functions and powers;

(b) to provide suitable penalties for the contravention of such rules or attempt to contravene them, or the abetment of such contravention ; and

(c) to authorise the arrest of any person contravening or reasonably suspected of contravening any such rule, and to prescribe the duties of public servants and others in regard to such arrests.

5. If any person alleged to be domiciled in any British Possession and to be subject to the provisions of this Act raises the plea that he is not so domiciled or that the provisions of the said Act do not apply to him the onus of proving the truth of such plea shall lie on the aforesaid person.

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## ACT NO. IV OF 1924.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor-General on the 13th March, 1924.*

### **An Act to provide for the constitution of a Central Board of Revenue and to amend certain enactments for the purpose of conferring powers and imposing duties on the said Board**

Whereas it is expedient to provide for the constitution of a Central Board of Revenue and to amend certain enactments for the purpose of conferring powers and imposing duties on the said Board ; It is hereby enacted as follows :—

Short title and commencement.      1. (1) This Act may be called the Central Board of Revenue Act, 1924.

(2) It shall come into force on the first day of April, 1924.

2. As soon as may be after the commencement of this Act, the Governor-General in Council shall constitute a Central Board of Revenue, consisting of one or more persons appointed by him, which shall be subject to the control of the Governor-General in Council in the exercise of such powers and the performance of such duties as may be entrusted to it by the Governor-General in Council or by or under any law.

3. The Governor-General in Council may make rules for the purpose of regulating the transaction of business by the Central Board of Revenue, and every order made or act done in accordance with such rules shall be deemed to be the order or act, as the case may be, of the Central Board of Revenue.

4. The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof :

Amendments of enact-  
ment.

Provided that, where the power to make any appointment, or issue any notification, order, scheme or rule, or prescribe any form, is transferred by the operation of this Act from any authority to the, Central Board of Revenue or any other authority, any such appointment, notification, order, scheme, rule, or form made, issued or prescribed by the first-mentioned authority before the commencement of this Act shall continue in force and be deemed to have been made, issued or prescribed by the Central Board of Revenue or such other authority, as the case may be, unless and until it is superseded by an appointment, notification, order, scheme, rule, or form made, issued or prescribed by the said Board or authority .

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**THE SCHEDULE.**  
**ENACTMENTS AMENDED.**  
*(See section 4.)*

Year.	No.	Short title.	Amendments.
1878	VIII	The Sea Customs Act, 1878.	<p>1. In section 3—  (1) for clause (a) the following clause shall be substituted, namely :—  “(a) ‘ Chief Customs-authority ’ means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924, and includes, in relation to any power or duty which the Governor-General in Council may, by notification in the Gazette of India, transfer from the Central Board of Revenue to a Local Government, the Local Government or such officer as the Local Government may appoint in that behalf”; and</p> <p>(2) after clause (j) the following clause shall be inserted, namely :—  “(k) ‘ official Gazette ’ means, in relation to a notification issued by a Local Government, the local official Gazette and, in relation to a notification issued by the Central Board of Revenue, the Gazette of India.”</p> <p>2. For section 6 the following section shall be substituted, namely :—  “6. The Governor-General in Council may appoint such persons as he thinks fit to be officers of Customs, and to exercise the powers conferred, and perform the duties imposed, by this Act on such officers.”</p> <p>3. For section 7 the following section shall be substituted, namely :—  “7. The Governor-General in Council may delegate to any Local Government or to the Chief Customs-authority any power conferred upon him by section 6, and the Local Government or the Chief Customs-authority may delegate to any officer of Customs any power so delegated to it.”</p>

THE SHEDULE—*contd.*

Year.	No.	Short title.	Amendments.
			<p>4. In sections 11, 12 and 14, for the words "The Local Government or, if so authorised by the Local Government, the Chief Customs-authority" the words "The Chief Customs-authority" shall be substituted, and, in section 11, the words "within the territories administered by it" shall be omitted.</p> <p>5. In section 23, for the words "The Local Government" the words "The Chief Customs-authority" shall be substituted.</p> <p>6. In sections 53, 74, 76, 79, 85, 96, 116, 128, 133 and 147, the word "local", wherever it occurs in the expression "local official Gazette", shall be omitted.</p> <p>7. In section 88, for the words, "the Chief Customs-authority may, with the concurrence of the Local Government, direct" shall be substituted.</p> <p>8. In section 128, for the words "the Local Government" the words "the Chief Customs-authority" shall be substituted.</p> <p>9. In section 133, for the words "the Local Government, subject to the control of the Governor-General in Council," the words "the Chief Customs-authority" shall be substituted.</p> <p>10. In section 155, after the words "the Local Government may" the words "with the previous sanction of the Governor-General in Council" shall be inserted and for the words "by its own officers" the words "by officers of Government" shall be substituted.</p> <p>11. In section 157, for the words "The Local Government" the words "The Governor-General in Council" shall be substituted.</p> <p>12. In section 188, for the words "the Local Government", in both places where they occur, the words "the Governor-General in Council" shall be substituted.</p>

THE SCHEDULE—*contd.*

Year.	No	Short title.	Amendments.
1878	VIII	The Sea Customs Act, 1878— <i>contd.</i>	<p>13. In section 191, for the words "The Local Government" the words "The Governor-General in Council" shall be substituted.</p> <p>14. After section 204 the following section shall be inserted, namely :—</p> <p>" 205. Any notification published in the Publication of Gazette of India by notifications in the Chief Customs-local official authority under section Gazettes. 53, section 74, section 76, section 79, section 85, section 96, section 116, section 128, section 133 or section 147 shall forthwith be re-published in the local official Gazette of each province to which it relates."</p>
1896	II	The Cotton Duties Act, 1896.	<p>1. For clause (2) of section 3 the following clause shall be substituted, namely :—</p> <p>" (2) 'Chief Customs Authority' means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924, and includes, in relation to any power or duty which the Governor-General in Council may, by notification in the Gazette of India, transfer from the Central Board of Revenue to a Local Government, the Local Government or such officer as the Local Government may appoint in that behalf :"</p> <p>2. In sub-clauses (b) and (c) of clause (3) of section 3 and in section 4, for words "the Local Government" the words "the Chief Customs-Authority" shall be substituted.</p> <p>3. In section 33, for the words "The Local Government" the words "The Governor-General in Council, or, if so empowered by the Governor-General in Council, the Local Government shall be substituted.</p>
1908	X	The Indian Salt-duties Act, 1908.	<p>In section 2, for the words "the Local Government" the words and figures "if so empowered by the Governor-General in Council, the Local Govern-</p>

THE SCHEDULE—*contd.*

Year.	No.	Short title.	Amendment.
			ment or the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924," shall be substituted.
1914	III	The Indian Copy right Act, 1914	In sub-section (2) of section 6, for the words "the Local Government" the words "the Customs-authority" shall be substituted.
1922	XI	The Indian Income-tax Act, 1922.	<p>1. After clause (4) of section 2 the following clause shall be inserted, namely:—</p> <p>"(4A) 'the Central Board of Revenue' means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924."</p> <p>2. In section 5—</p> <p>(i) in clause (a) of sub-section (1), for the words "a Board of Inland Revenue" the words "the Central Board of Revenue" shall be substituted; and</p> <p>(ii) sub-section (2) shall be omitted.</p> <p>3. In clauses (6) and (11) of section 2, in sub-section (5) of section 5, in sub-section (6) of section 18, in sub-section (5) of section 46, in sub-section (1) of section 59, and in sub-section (3) of section 64, for the words "the Board of Inland Revenue" the words "the Central Board of Revenue" shall be substituted.</p>

## ACT NO. V OF 1924.

*Received the assent of the Governor-General on the 13th March 1924.*

### **An Act further to amend the Indian Penal Code for certain purposes.**

Whereas it is expedient further to amend the Indian Penal Code\* for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1924.

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the Gazette of India, appoint.

Amendment of sections 372 and 373, Act XLV of 1860.

2. In sections 372, and 373 of the Indian Penal Code,\* for the word "sixteen" the word "eighteen" shall be substituted.

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\* XLV of 1860.

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# ACT No. VI OF 1924.

## THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 15th March, 1924.*

### An Act to consolidate the law relating to Criminal Tribes.

WHEREAS it is expedient to consolidate the law relating to criminal tribes ; It is hereby enacted as follows :—

#### *Preliminary.*

Short title and extent. 1. (1) This Act may be called the Criminal Tribes Act, 1924.

(2) It extends to the whole of British India.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "district" includes a Presidency town and the town of Rangoon ;

(2) "District Magistrate" means, in the case of a Presidency-town or the town of Rangoon, the Commissioner of Police ;

(3) "prescribed" means prescribed by rules made under this Act ; and

(4) "Superintendent of Police" means, in the case of Presidency town or the town of Rangoon, any officer appointed by the Local Government to perform the duties of a Superintendent of Police under this Act.

#### *Notification of Criminal Tribes.*

3. If the Local Government has reason to believe that any tribe or class of persons, or any part of a tribe, gang or class is addicted to the systematic commission of non-bailable offences, it may by notification in the local official Gazette, declare that such tribe, gang or class or, as the case may be, that such part of the tribe, gang or class is a criminal tribe for the purposes of this Act.

#### *Registration of Members of Criminal Tribes.*

4. The Local Government may direct the District Magistrate to make or to cause to be made a register of the members of any criminal tribe, or part of a criminal tribe, within his district.

Registration of members of criminal tribes.

5. Upon receiving such direction, the District Magistrate shall publish notice in the prescribed manner at the place where the register is to be made and at such other places as he may think fit, calling upon all the members or the criminal tribe or part, as the case may be—

Procedure in making register.

- (a) to appear at a time and place therein specified before a person appointed by him in this behalf ;
- (b) to give to that person such information as may be necessary to enable him to make the register ; and
- (c) to allow their finger-impressions to be recorded ;

Provided that the District Magistrate may exempt any member from registration and may cancel any such exemption.

6. The register, when made shall be placed in the keeping of the Superintendent of Police, who shall, from time to time, report to the District Magistrate any alterations which ought in his opinion to be made therein, either by way of addition or erasure.

7. (1) After the register has been placed in the keeping of the Superintendent of police, no person's name shall be added to the register and no registration shall be cancelled, except by or under an order in writing of, the District Magistrate.

(2) Before the name of any person is added to the register under this section, the Magistrate shall give notice in the prescribed manner to the person concerned—

- (a) to appear before him or an authority appointed by him in this behalf at a time and place therein specified ;
- (b) to give to him or such authority such information as may be necessary so enable the entry to be made ; and
- (c) to allow his finger-impressions to be recorded.

8. Any person deeming himself aggrieved by any entry made, or proposed to be made, in such register, either when the register is first made or subsequently, may complain to the District Magistrate against such entry, and the Magistrate shall retain such person's name on the register or enter therein or erase it therefrom, as he may think fit.

9. The District Magistrate or any officer empowered by him in this behalf may at any time order the finger-impressions of any registered member of a criminal tribe to be taken.

10. The Local Government may, by notification in the local official Gazette, issue in respect of any criminal tribe either or both of the following directions, namely, that every registered member thereof shall, in the prescribed manner,

- (a) report himself at fixed intervals ;
- (b) notify his place of residence and any change or intended change of residence, and any absence or intended absence from his residence.

*Restriction of Movement of Criminal Tribes.*

11. (1) If the Local Government considers that it is expedient that any criminal tribe, or any part or member of a criminal tribe, should be—  
 Power to restrict movements of, or settle criminal tribes.

(a) restricted in its or his movements to any specified, area, or

(b) settled in any place of residence, the Local Government may, by notification in the local official Gazette declare that such criminal tribe, part or member, as the case may be shall be restricted in its or his movements to the area specified in the notification, or shall be settled in the place of residence so specified, as the case may be.

(2) Before making any such declaration, the Local Government shall consider the following matters, namely :—

(i) the nature and the circumstances of the offences in which the members of the criminal tribe, or part or the individual member, as the case may be, are or is believed to have been concerned ;

(ii) whether the criminal tribe, part or member follows any lawful occupation, and whether such occupation is a real occupation or merely a pretence for the purpose of facilitating the commission of crimes ;

(iii) the suitability of the restriction area, or of the place of residence, as the case may be, which it is proposed to specify in the notification ; and

(iv) the manner in which it is proposed that the persons to be restricted or settled shall earn their living within the restriction area or in the place of residence, and the adequacy of the arrangements which are proposed therefor.

12. The Local Government may by a like notification vary the terms of any notification issued by it under section II for the purpose of specifying another restriction area or another place of residence, as the case may be, and any officer empowered in this behalf by the Local Government may, by order in writing vary any notification made under section II or under this sections for the purpose of specifying another restriction area, or, as the case may be another place of residence, in the same district.  
 Power to vary specified area or place of residence.

13. Any notification made by the Local Government under section 11 or section 12 may specify, as the restriction area or as the place of residence an area or place situated in any other provided that the consent of the Local Government of that province shall first have been obtained.  
 Power of Local Government to restrict or settle criminal tribe in another province.

14 Every registered member of a criminal tribe, whose movements have been restricted or who has been settled in a place of residence in pursuance of any notification under section 11 or section 12, shall attend at such place and at such time and before such person as may be prescribed in this behalf.

15. (1) Where, in pursuance of any such notification any member of a criminal tribe is restricted in his movements to an area, or is settled in a place of residence, situated in a province other than that by the Local Government of which the notification under section 3 relating to the criminal tribe was issued, all the provisions of this Act and the rules made thereunder shall apply to him as if the notification under section 3 had been issued by the Local Government of such other province.

(2) If any criminal tribe, or any part of a criminal tribe, which has been registered under section 4 in any district, or any member of such tribe or part, is restricted in its or his movements to an area, or is settled in a place of residence, situated in another district (whether in the same province or not), the register or, as the case may be, the relevant entries or entry therein shall be transferred to the Superintendent of Police of the last mentioned district, and all the provisions of this Act and the rules made thereunder shall apply as if the criminal tribe or part had been registered in that district, and the District Magistrate of that district shall have power to cancel any exemption granted under section 5.

#### *Settlements and Schools.*

16. The Local Government may establish industrial, agricultural or reformatory settlements and may order to be placed in any such settlement any criminal tribe, or any part or member of a criminal tribe, in respect of which or of whom a notification has been issued under section 11:

Provided that no such order shall be made unless the necessity for making it has been established to the satisfaction of the Local Government after an inquiry held by such authority and in such manner as may be prescribed.

17. (1) The Local Government may establish industrial, agricultural or reformatory schools for children, and may order to be separated and removed from their parents or guardians and to be placed in any such school or schools the children of members of any criminal tribe or part of a criminal tribe, in respect of which a notification has been issued under section 11.

(2) For every school established under subsection (1), a Superintendent shall be appointed by the Local Government.

(3) The provisions of sections 18 to 22 of the Reformatory Schools Act, 1897, shall, so far as may be, apply in the case of every school for children established under this section as if the Superintendent of such school were a Superintendent and the children placed in such school were youthful offenders within the meaning of that Act.

(4) For the purposes of this section the term "children" includes all persons under the age of eighteen and above the age of six years.

(5) The decision of the District Magistrate as to the age of any person for the purposes of this section shall be final.

18. The Local Government or any officer authorised by it in this behalf may at any time, by general or special order, direct any person who may be in any industrial, agricultural or reformatory settlement or school in the province, —

Power to discharge or transfer persons from settlement or school.

(a) to be discharged, or

(b) to be transferred to some other settlement or school in the province.

19. Any order made under section 16, section 17 or section 18 may specify as the settlement or school in which any person is to be placed or to which he is to be transferred, as the case may be, any industrial, agricultural or reformatory settlement or school in any other province, provided that the consent of the Local Government of that province shall first have been obtained.

Power to direct use of any settlement or school in British India for reception of persons.

### *Rules.*

20. (1) The Local Government may make rules to carry out the purposes and objects of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate—

(a) the form and contents of the register referred to in section 4 ;

(b) the manner in which the notice referred to in section 5 shall be published and the means by which the persons whom it concerns, and the village headmen, village watchmen and landowners and occupiers of the village in which such persons reside, and the agents of such landowners or occupiers, shall be informed of its publication ;

(c) the addition of names to the register and the erasure of names therein, and the mode in which the notice referred to in sub-section (2) of section 7 shall be given ;

(d) the manner in which persons mentioned in section 10 shall report themselves, or notify their residence or any change or intended change of residence or any absence or intended absence ;

(e) the nature of the restrictions to be observed by persons whose movements have been restricted by notifications under section 11 or section 12 ;

(f) the circumstances in which members of a criminal tribe shall be required to possess and produce for inspection certificates of identity, and the manner in which such certificates shall be granted ;

(g) the conditions as to holding passes under which persons may be permitted to leave the place in which they are settled or confined, or the arrea to which their movements are restricted ;

(h) the conditions to be inserted in any such pass in regard to—

(i) the places where the holder of the pass may go or reside ;

(ii) the persons before whom, from time to time he shall be bound to present himself ; and

(iii) the time during which he may absent himself ;

(i) the place and time at which and the persons before whom members of a criminal tribe shall attend in accordance with the provisions of section 14 ;

(j) the authority by whom and the manner in which the inquiry referred to in section 16 shall be held ;

(k) the inspection of the residences and villages of any criminal tribe ;

(l) the terms upon which registered members of criminal tribes may be discharged from the operation of this Act ;

(m) the management, control and supervision of industrial, agricultural or reformatory settlements and schools ;

(n) the works on which, and the hours during which, persons placed in an industrial, agricultural or reformatory settlement shall be employed, the rate at which they shall be paid and the disposal, for the benefit of such person of the surplus proceeds of their labour ; and

(o) the discipline to which persons endeavouring to escape from any industrial, agricultural or reformatory settlement or school or otherwise offending against the rules for the time being in force, shall be subject, the periodical visitation of such settlement or school and the removal from it of such persons as it shall seem expedient to remove.

### *Penalties and Procedure.*

21. Whoever, being a member of a criminal tribe without lawful excuse, the burden of proving which shall lie upon him,—  
Penalties for failure to comply with terms of notice under section 5 or section 7.

(a) fails to appear in compliance with a notice issued under section 5 or section 7, or

(b) intentionally omits to furnish any information required under either of those sections, or,

(c) when required to furnish information under either of those sections furnishes as true any information which he knows or has reason to believe to be false, or

- (d) refuses to allow his finger-impressions to be taken by any person acting under an order passed under section 9,

may be arrested without warrant, and shall be punishable with imprisonment for a term which may be extended to six months, or with fine which may be extended to two hundred rupees, or with both.

22. (1) Whoever, being a registered member of a criminal tribe, contravenes a rule made under clause (e) clause (g) or clause (h) of section 20 shall be punishable with imprisonment for a term which may extend, —

- (a) on a first conviction, to one year,  
 (b) on a second conviction to two years, and  
 (c) on any subsequent conviction to three years,

or with fine which may extend to five hundred rupees, or with both.

(2) Whoever being, a registered member of a criminal tribe, contravenes any other rule made under section 20 shall be punishable:—

- (a) on a first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both; and  
 (b) on any subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

(3) Any person who commits or is reasonably suspected of having committed an offence made punishable by this section which is not a cognizable offence as defined in the Code of Criminal Procedure, 1898, may be arrested without a warrant by any officer in charge of a police-station or by any police officer not below the rank of a subinspector.

23 (b) whoever, being a member of any criminal tribe and having been convicted of any of the offences under the Indian Penal Code specified in Schedule I, is convicted of the same or of any other such offence shall, in the absence of special reasons to the contrary which shall be stated in the judgment of the court, be punished,

- (a) on a second conviction, with imprisonment for a term of not less than seven years, and  
 (b) on a third or any subsequent conviction, with transportation for life;

Provided that not more than one of any such convictions which may have occurred before the 1st day of March, 1911, shall be taken into account for the purposes of this sub-section.

(2) Nothing in this section shall affect the liability of such person to any further or other punishment to which he may be liable under the Indian Penal Code or any other law.

24. Whoever being a registered member of any criminal tribe, is found  
Punishment for registered members of criminal tribe found under suspicious circumstances. in any place under such circumstances as to satisfy the court,—

- (a) that he was about to commit, or aid in the commission of, theft or robbery, or
- (b) that he was waiting for an opportunity to commit theft or robbery,

shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine which may extend to one thousand rupees

Arrest of registered person found beyond prescribed limits.

25. (1) Whoever, being a registered member of a criminal tribe,—

- (a) is found in any part of British India, beyond the area or place of residence, if any, to which his movements have been restricted or in which he has been settled without the prescribed pass, or in a place or at a time not permitted by the conditions of his pass, or
- (b) escapes from an industrial, agricultural or reformatory settlement or school,

may be arrested without warrant by any police-officer, village headman or village watchman, and may be taken before a Magistrate, who, on proof of the facts, shall order him to be removed to such area or place or to such settlement or school, as the case may be, there to be dealt with in accordance with this Act or any rules made thereunder.

(2) The rules for the time being in force for the removal of prisoners shall apply to all persons removed under this section or under any other provision of this Act :

Provided that an order from the Local Government or from the Inspector-General of Prisons shall not be necessary for the removal of such persons.

26. (1) Every village-headman and village-watchman in a village  
Duties of village-headmen, village-watchmen and owners or occupiers of land to give information in certain cases. in which any members of a criminal tribe reside, and every owner or occupier of land on which any such persons reside, and the agent of any such owner or occupier, shall forthwith communicate to the officer in charge of the nearest police station any information which he may obtain of—

- (a) the failure of any such person to appear and give information when required to do so by a notice issued under section 5 : or
- (b) the departure of any registered member of a criminal tribe from such village or from such land, as the case may be.

(2) Every village-headmen and village-watchman in a village, and every owner or occupier of land and the agent of any such owner or occu-



pier, shall forthwith communicate to the officer in charge of the nearest police-station any information which he may obtain of the arrival at such village or on such land as the case may be of any persons who may reasonably be suspected of being members of any criminal tribe.

27. Any village-headman, village-watchman, owner or occupier of land, and the agent of any such owner or occupier who fails to comply with the requirements of section 26, shall be deemed to have committed an offence punishable under the first part of section 176 of the Indian Penal Code.

28. The Local Government, if it is satisfied that adequate provision has been made by the law of any State in India for the restriction of the movements or the settlement in a place of residence of persons such as are referred to in section 3, and for securing the welfare of persons so restricted or settled, may, with the consent of the Prince or Chief of that State, direct the removal to that State of any criminal tribe, or part of a criminal tribe, for the time being in the province, and may authorise the taking of all measures necessary to effect such removal :

Provided that no person shall be so removed if the Local Government is satisfied that he is a subject of His Majesty.

#### *Supplemental.*

29. No. Court shall question the validity of any notification issued under section 3, section 11, or section 12, on the ground that the provisions hereinbefore contained or any of them have not been complied with, or shall entertain in any form whatever the question whether they have been complied with ; but every such notification shall be conclusive proof that it has been issued in accordance with law.

30. The enactments mentioned in Schedule II are hereby repealed to the extent specified in the fourth column thereof.

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## SCHEDULE I.

(See section 23.)

## CHAPTER XII.

### SECTIONS.

- 231. Counterfeiting coin.
- 232. Counterfeiting Queen's coin.
- 233. Making or selling instrument for counterfeiting Queen's coin.
- 234. Making or selling instrument for counterfeiting Queen's coin.
- 235. Possession of instrument or material for the purpose of using the same for counterfeiting coin.

## SECTIONS.

- 239. Delivery of coin, possessed with the knowledge that it is counterfeit.
- 240. Delivery of Queen's coin possessed with the knowledge that it is counterfeit.
- 242. Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.
- 243. Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.

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 CHAPTER XII.

- 299. Culpable homicide.
- 307. Attempt to murder.
- 308. Attempt to commit culpable homicide.
- 31. Being a thug.
- 322. Voluntarily causing grievous hurt.
- 324. Voluntarily causing hurt by dangerous weapons or means.
- 326. Voluntarily causing grievous hurt by dangerous weapons or means.
- 327. Voluntarily causing hurt to extort property or to constrain to an illegal act.
- 328. Causing hurt by means of poison, etc., with intent to commit an offence.
- 329. Voluntarily causing grievous hurt to extort property or to constrain to an illegal act.
- 332. Voluntarily causing hurt to deter public servant from his duty.
- 333. Voluntarily causing grievous hurt to deter public servant from his duty.
- 369. Kidnapping child under ten years with intent to steal from its persons.

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 CHAPTER XVII.

- 382. Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft.
- 383. Extortion.
- 385. Putting person in fear of injury in order to commit extortion.
- 386. Extortion by putting a person in fear of death or grievous hurt.
- 387. Putting person in fear of death or of grievous hurt in order to commit extortion.
- 390. Robbery.
- 391. Dacoity.
- 393. Attempt to commit robbery.
- 394. Voluntarily causing hurt in committing robbery.

397. Robbery or dacoity, with attempt to cause death or grievous hurt.
398. Attempt to commit robbery or dacoity when armed with deadly weapon.
399. Making preparation to commit dacoity.
402. Assembling for propose of committing dacoity.
457. Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.
458. Lurking house-trespass or house breaking by night after preparation for hurt assault or wrongrul restraint.
459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
460. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.

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### SCHEDULE II.

(See section 30.)

1	2	3	4
Year.	Number.	Short title.	Extent of repeal
1911	III	The Criminal Tribes Act, 1911.	So much of the Act as has not been repealed.
1914	X	The Repealing and Amending Act 1914,	So much of Schedule II as relates to the Criminal Tribes Act, 1911.
1915	XI	The Repealing and Amending Act 1915.	So much of Schedule I as relates to the Criminal Tribes Act 1911
1923	XXXVIII	The Devolution Act 1920.	So much of Schedule I as relates to the Criminal Tribes Act 1911.
1923	I	The Criminal Tribes (Amendment) Act 1923.	The whole Act,

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## Act No VII of 1924.

PASSED BY THE INDIAN LEGISLATURE.

Received the assent of the Governor General on the 15th March 1924. An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient that certain amendments should be made in the enactments specified in the First Schedule ;

And wheareas it is also expedient that certain enactments specified in the Second Schedule which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by express specific repeal should be expressly and specifically repealed ;

It is hereby enacted follows :—

- |                                  |   |
|----------------------------------|---|
| Short title.                     | 1. This Act may be called the Repealing and Amending Act, 1924.   |
| Amendment of certain enactments. | 2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner metioned in the fourth column thereof.               |
| Repeal of certain enactments.    | 3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof.                              |
| Savings.                         | 4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to ; |

and this Act shall not affect the vailidity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge or of from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

## THE FIRST SCHEDULE.

## AMENDMENT.

(See section 2.)

Year.	Number.	Short title.	Amendments.
1898	V	The Code of Criminal Procedure 1898.	<p>In subsection (3) section 541, for the word and figure "subsection (1) " the word and figure "subsection (2) " shall be substituted.</p> <p>In subsection (1) of section 564, after the word and figure "section 562" the word and figure "subsection (1)" shall be inserted.</p>
1920	XI.	The Aligarh Muslim University Act, 1920.	In sub-section (4) of section 9 of the Schedule, for the word "Courts" the word "Court" shall be substituted.
"	XLVII	The Imperial Bank of India Act, 1920	In clause (p) of Part I of Schedule I after the words "purpose of" the word "the" shall be inserted.
1922	XI	The Indian Income-tax Act, 1922.	In sub-section (2) of section 63, for words "on the " the words "to the" shall be substituted.
1923	VIII	The Workmen's Compensation Act 1923.	<p>In sub-section (2) of section 10, for the words "any one or " the words "any one of " shall be substituted.</p> <p>In sub-section (5) of section 15, for the words "monthly payment" shall be substituted.</p> <p>In proviso (d) to sub-section (1) of section 28, for the words "or may make such order" the words "and may make such order" shall be substituted.</p>

## THE SECOND SCHEDULE.

## REPEALS.

(See section 3.)

Year.	Number.	Short title.	Repeals.
1920	XXXI	The Repealing and Amending Act, 1920	So much of the Second Schedule as relates to the Lower Burma Courts Act, 1920.
"	XL	The Aligarh Muslim University Act, 1920.	In section 24, the figure and brackets "(1)."
1920	XLIII	The Presidency Banks (Amendments) Acts, 1920,	The whole Act.
1923	VIII	The Workmen's Compensation Act, 1923.	In sub-section (1) of section 28, the words "or to a dependant," and in proviso (d) to the said sub-section the words "or to any dependant."
"	XXI	The Indian Merchant Shipping Act, 1923.	So much of Schedule V as relates to the Lower Burma Courts Act, 1900

The following Act, which has been assented to by the Governor General under the provisions of clause (b) of sub-section (1) of section 67B of the Government of India Act, and has been expressed to be made by the Governor General under the provisions of sub-section (2) of the same sectionis, hereby published for general information:—

**An Act to fix the duty on salt manufactured or imported by land into certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax**

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Paper Currency Act, 1923, and to fix rate of income tax; it is hereby enacted as follows :—

Short title extent and duration. 1. (1) This Act may be called the Indian Finance Act, 1924.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) Sections 2 and 4 shall remain in force only up to the 31st day of March, 1925.

2. (1) The Provisions of section 7 of the Indian Salt Act, 1882, shall in so far as they enable the Governor General in council to impose by rule made under that section a duty on salt manufactured in or imported into, any part of British India other than Burma and Aden be construed as if with effect from the first day of March 1924, they imposed such duty at the rate of one rupee and four annas per maund eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

(2) with effect from the first day of March, 1924, section 2 of the Indian Finance Act, 1923, is hereby repealed.

3. With effect from the first day of March, 1924, the amendment specified in the first schedule to this Act shall be made in Schedule II to the Indian Tariff Act, 1894.\*

4. With effect from the first day of April, 1924, the Schedule contained in the second Schedule to this Act shall be inserted in the Indian Post Office Act, 1898 as the first Schedule to that Act,

5 In subsection (7) of section 19 of the Indian paper Currency Act, 1923, for figures "1924" the figures "1925" shall be substituted.

6. (1) Income tax for the year beginning on the first April, 1924, shall be charged at the rate specified in Part I of the third Schedule.

(2) The rates of super-tax for the year beginning on the first day of April, 1924, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922,\* be those specified in Part II of the third Schedule.

(3) For the purposes of the third Schedule, "total income" means total income as defined in clause (15) of section 2 of the Indian Income-tax act, 1922.\*

## SCHEDULE I.

Amendment to be made in Schedule II to the Indian Tariff Act, 1894

(See Section 3.)

After Item No. 46 the following Item shall be inserted, namely

"46A	Undipped SPLINTS such as are ordinarily used for match making	Pound	Four annas and six Pies.
46B	VENEERS such as are ordinarily used for making match boxes, including boxes and parts of boxes made of such veneers.	Pound	Six annas.*

\* XI of 1922.,



## SCHEDULE II.

Schedule to be insrested in the Indian Post Office Act, 1898

(See Section 4)

### "THE FIRST SCHEDULE.

#### INLAND POSTAGE RATES.

(See Section 7.)

##### *Letters.*

For weight not exceeding two and a half tolas	One anna.
For every two and a half tolas, or fraction thereof, exceeding two and half tolas. ...	One anna.

##### *Postcards.*

Single ...	Half an anna.
Reply ...	One anna.

##### *Book, Pattern and Sample Paekets.*

For every five tolas or fraction thereof ...	Half an anna.
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##### *Registered Newspaper*

For a weight not exceeding eight tolas ...	Quarter of an anna.
For a weight exceeding eight tolas and not exceeding twenty tolas ...	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas ...	Half an anna.

##### *Parcels.*

For a weight not exceeding twenty tolas ...	Two annas.
For a weight exceeding twenty tolas and not exceeding forty tolas ...	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas ...	Four annas.

## SCHEDULE

(See section 6.)

### PART I.

#### *Rates of Income-tax.*

- A. In the case of every individual, every unregistered firm and every Hindu undivided family—
- |  |                         |
|--|-------------------------|
| (1) When the total income is less than Rs. 2,000 ...                                 | Nil                     |
| (2) When the total income is Rs. 2,000 or upwards, but is less than Rs 5,000. ...    | Five pies in the rupee. |
| (3) When the total income is Rs. 10,000 or upwards, but is less than Rs. 10,000. ... | Six pies in the rupee.  |
| (4) When the total income is Rs. 10,000 or upwards, but is less than Rs. 20,000.     | Nine pies in the rupee. |

SCHEDULE—*contd.*

(5) When the total income is Rs. 20,000 or upwards, but is less than Rs 30,000.	One anna in the rupee.
(6) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000.	One anna and three pies in the rupee.
(7) When the total income is Rs. 40,000 or upwards.	One anna and six pies in the rupee.
B. In the case of every company, and every registered firm, whatever its total income—	One anna and six pies in the rupee.

## PART II.

*Rates of Super-tax.*

In respect of the excess over fifty thousand rupees of total income:—	Rate.
(1) in the case of every company.	One anna in the rupee.
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first twenty-five thousand rupees of the excess.	<i>Nil</i>
(ii) for every rupee of the next twenty five thousand rupees of such excess.	One anna in the rupee.
(b) in the case of every individual and every unregistered firm, for every rupee of the first fifty thousand rupees of such excess.	One anna in the rupee.
(c) in the case of every individual, every unregistered firm and every Hindu undivided family—	
(i) for every rupee of the second fifty thousand rupees of such excess.	One and a half annas in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess.	Two annas in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess.	Two and a half annas in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess.	Three annas in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess.	Three and a half annas in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess.	Four annas in the rupee.
(vii) every rupee of the next fifty thousand rupees of such excess.	Four and a half annas in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess.	Five annas in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess.	Five and a half annas in the rupee.
(x) for every rupee of the remainder of the excess.	Six annas in the rupee.

This Act has been made by me as Governor General under the provisions of section 67 B of the Government of India Act.

READING.

*Viceroy and Governor-General.*

*The 26th March, 1924.*

Whereas I, Refus Daniel, Earl of Reading, am of opinion that a state of emergency exists which justifies a direction by me that the Act to fix the duty on salt manufactured in or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Paper Currency Act, 1923, and to to fix rates of incom-tax, being an Act made by me under the provisions of section 67B of the Government of India Act, shall come into operation forthwith.

Now therefore, in exercise of the power conferred by the proviso to sub-section (2) of that section, I do hereby direct accordingly.

READING

*Viceroy and Governor-General.*

*The 26th March, 1924.*

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## ACT NO. VIII OF 1924.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor-General on the 9th March 1924.*

### An Act further to amend the Sea Customs Act, 1878, for certain purposes.

WHEREAS it is expedient further to amend the Sea Customs Act, 1878 for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title and commencement.	1. (1) This Act may be called the Sea Customs (Amendment) Act, 1924.
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(2) It shall come into force on the first day of April, 1924.

Amendment of section 20, Act VIII of 1878.	2. In section 20 of the Sea Customs Act, 1878,* the proviso shall be omitted.
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## ACT NO. IX OF 1924.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor-General on the 19th March 1924.*

### An Act further to amend the Indian Tariff Act, 1894, for certain purposes.

WHEREAS it is expedient further to amend the Indian Tariff Act, 1894, for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title and commencement.	1. (1) This Act may be called the Indian Tariff (Amendment) Act, 1924.
-------------------------------	--

(2) It shall come into force on the 1st day of April, 1924.

Amendment of preamble to Act VIII of 1894.	2. In the preamble to the Indian Tariff Act 1894 (hereinafter referred to as the said Act), for the words "crossing the frontier of certain Foreign European Settlements in India and of the territories of certain Native Chiefs" the words "imported into or exported from British India by land" shall be substituted.
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Substitution of new section for section 5, Act VIII of 1894.	3. For section 5 of the said Act the following section shall be substituted, namely :—
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\* VIII of 1878.

"5. Where a duty of customs at any rate prescribed by or under this Act or any other law for the time being in force is leviable on any article when imported into, or on any article when exported from, a port in British India, the Governor-General in Council may by notification in the Gazette of India direct that a duty of customs at the like rate shall be leviable on any such article when imported or exported as the case may be, by land from or to any territory outside British India, which he may, by a like notification, declare to be foreign territory for the purposes of this section."

Amendment of section 8,  
Act VIII of 1894.

4. In section 8 of the said Act the words figure and brackets "sub-section (1), clause (b)" shall be omitted.

## ACT NO. X OF 1924

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 26th March 1914*

### An Act further to amend the Indian Coinage Act, 1906, for certain purposes.

WHEREAS it is expedient further to amend the Indian Coinage Act 1906, for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Coinage (Amendment) Act, 1924.

2. In clause (b) of sub-section (1) of section 15 of the Indian Coinage Act, 1906 hereinafter referred to as the said Act for the words "notwithstanding anything contained in this Act or in any Act hereby repealed, but subject" the following shall be substituted, namely :—

Amendment of section 15  
Act III of 1906.

"subject only to the provisions of section 15A and."

Insertion of new section  
15A in Act III of 1906.

3. After section 15 of the said Act the following section shall be inserted namely :—

15A. Notwithstanding anything contained in section 12, section 13, section 14, or section 15, the Governor General in Council may by notification in the Gazette of India, call in, with effect from such date as may be specified in the notification any coin of whatever date or denomination, referred to in any of those sections, other than the rupee and half-rupee referred to in sub-section (1) of section 12, and on and from the date so specified such coin shall cease to be a legal tender save at a Government currency office :

Provided that such coin shall continue to be a legal tender also at Government treasuries until the expiry of such further period not being less than twelve months as the Governor General in Council may fix by the notification."

## ACT NO. XI OF 1924.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 28th March 1924*

### An Act further to amend the Indian Income-tax Act, 1922, for certain purposes.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922,\* for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title and commencement.      1. (1) This Act may be called the Indian Income-tax (Amendment) Act 1924.

(2) Sections 4, 5, 6 and 10 shall not come into force until the first day of April, 1924.

Amendment of section 2, Act XI of 1922.      2. In clause (12) of section 2 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), after the words "any other public body or" the word "any" shall be inserted.

Amendment of section 3, Act XI of 1922.      3. In section 3 of the said Act for the words individual, company, firm and Hindu undivided family" the words "individual, Hindu undivided family, company, firm and other association of individuals shall be substituted.

Amendment of section 4, Act XI of 1922.      4. In clause (iv) of sub-section (3) of section 4 of this said Act, the words "or any Provident Insurance Society to which the Provident Insurance Societies Act 1912† is or, but for an exemption under that Act would be applicable" shall be omitted.

Amendment of section 15, Act XI of 1922.      5. In sub-section (1) of section 15 of the said Act the words "or to any Provident Fund which complies with the provisions of the Provident Insurance Societies Act, 1912, or has been exempted from the provision of that Act" shall be omitted.

Amendment of section 25, Act XI of 1922.      6. In section 25 of the said Act,—

(a) in sub-section (1) for the words and figures "commenced after the 31st day of March 1922" the words and figures "on which income-tax was not at any time charged under the provisions of the Indian Income-tax Act 1918‡ shall be substituted ; and

\* XI of 1922.

† V of 1912.

‡ VII of 1918.

(b) in sections (3) the work which was in existence at the commencement of this Act and" shall be omitted.

7. In section 55 of the said Act for the words "individual unregistered firm, Hindu undivided family or company" the words, "individual, Hindu undivided family company, unregistered firm or other association of individuals, not being a registered firm" shall be substituted.

8. In section 56 of the said Act, for the words "individual, unregistered firm, Hindu undivided family or company" the words "individual, Hindu undivided family company unregistered firm or other association of individuals" shall be substituted.

9. To sub-section (2) of section 63 of the said Act after the words "member of the family" the words "and in the case of any other association of individuals be addressed to the principal officer thereof" shall be added.

10. In sub-section (3) of section 66 of the said Act, after the words "the assessee may" the words "within six months from the date on which he is served with notice of the refusal" shall be inserted.

11. The amendments made in the said Act by sections 3, 7 and 8 shall have effect as if they had been made on the first day of April, 1923, and income-tax and super-tax shall be deemed to have been chargeable for the year commencing on that date and to be chargeable for the year commencing on the first day of April 1924, at the rate or rates applicable for those years to the total income of an individual, in respect of the income, profits and gains and of total income, respectively of every association of individuals for which no rate of tax has been otherwise laid down by law.

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## ACT NO. XII OF 1924.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 13th June 1924.*

### An Act to amend the Indian Soldiers (Litigation) Act, 1918, for certain purposes

WHEREAS it is expedient to amend the Indian Soldiers (Litigation) Act, 1918, for certain purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Soldiers Litigation (Amendment) Act, 1924.

Amendment of section 11,  
Act IX of 1918.

2. In section 11 of the Indian Soldiers (Litigation) Act, 1918,\* for the word "is" the words "is or has been" shall be substituted.

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\* IX of 1918.●



## ACT NO. XIII OF 1924.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 13th June 1924.*

**An Act to provide for the modification of certain provisions of the Indian Stamp Act, 1899, in their application to certain promissory notes and other instruments.**

WHEREAS it is expedient to provide for the modification of certain provisions of the Indian Stamp Act, 1899,\* in their application to certain promissory notes and other instruments ; It is hereby enacted as follows :—

Short title and extent.                      1. (1) This Act may be called the Indian (Specified Instruments) Stamp Act, 1924.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

2. In this Act,—

Definitions.                                      (a) “instrument to which this Act applies” means—

(i) any instrument mentioned in Article No. 19, No. 36, No. 37, or No. 52 in Schedule I to the Indian Stamp Act, 1899,\* or

(ii) any promissory note payable on demand for an amount exceeding two hundred and fifty rupees,

which has been executed in British India at any time after the 30th day of september, 1923, and before the 1st day of April, 1924, and which has been stamped in such a manner that it would have been duly stamped for the purpose of the Indian Stamp Act, 1899,\* if the Indian Stamp (Amendment) Act, 1923,† had not been passed ; and

(b) “section” means a section of the Indian Stamp Act, 1899.\*

3. (1) No exception or restriction in respect of promissory notes contained in clause (a) of the proviso to section 35 or in sub-section (1) of section 40, or in section 41 shall be deemed to apply in respect of any promissory note which is an instrument to which this Act applies.

(2) For the purpose of the application of clause (a) of the proviso to section 35 and of sub-section (1) of section 40 to instruments to which this Act applies, nothing therein contained shall be deemed to require or authorise the imposition of any penalty in respect of any such instrument.

(3) Every instrument to which this Act applies shall be deemed to have been duly stamped for the purposes of section 62.

(4) Where, before the commencement of this Act, any sum has been recovered in respect of any instrument to which this Act applies, by way of fee under sub-section (1) of section 32, or by way of penalty under the the proviso to section 35 or under sub-section 40, or by way of fine under section 62, the person from whom such sum has been recovered shall be entitled to a refund thereof.

\* II of 1899.

† XLII of 1923.

## ACT NO. XIV OF 1924.

PASSED BY THE INDIAN LEGISLATURE.

*Received the assent of the Governor General on the 13th June 1924.*

### An Act to provide for the fostering and development of the steel industry in British India.

WHEREAS it is expedient, in pursuance of the policy of discriminating protection of industries in British India with due regard to the well-being of the community, to provide for the fostering and development of the steel industry by increasing the import duties leviable on certain iron and steel articles and by enabling bounties to be granted to manufacturers in British India of certain such articles, and to determine the duties and bounties which shall be payable in respect of such articles during the first three years of the application of that policy to the said industry ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Steel Industry (Protection) Act 1924.

Amendment of Act VIII  
of 1894.

2. (1) To section 3 of the Indian Tariff Act 1894, the following sub-section shall be added namely :—

“(4) If the Governor General in Council is satisfied, after such inquiry as he thinks necessary, that articles of any class chargeable with duty under part VII of the second Schedule are being imported into British India from any place outside India at such a price as is likely to render ineffective the protection intended to be afforded by such duty to similar articles manufactured in India, he may, by notification in the Gazette of India, increase such duty to such extent as he thinks necessary either generally or in respect of such articles when imported from or manufactured in any country or countries specified in the notification. ”

(2) In the Second Schedule to the same Act there shall be made the amendments specified in the Schedule to this Act.

(3) The amendments made by sub-section (2) shall have effect up to the 31st day of March, 1927.

3. On the production by any company firm or other person engaged

Bounties on steel rails  
and fish-plates.

in the business of manufacturing steel of a certificate granted by an officer authorised by the Governor General in Council by order in writing

in this behalf that such company, firm or other person has on a specified date, not earlier than the 1st day of April, 1924, completed the manufacture of any steel rails of a weight per yard of not less than 30 pounds avoirdupois or of any fish-plates suitable for use with such rails, and that the rails or fish plates have been wholly manufactured in British India from material wholly or mainly produced from Indian iron ore and

comply with any specification for the time being prescribed or approved by the Railway Board for steel rails or fish-plates, as the case may be, the Governor General in Council shall cause to be paid to such company firm or other person a bounty in respect of such rails or fish-plates at the following rate namely :—

- (a) Rs. 32 per ton of rails or fish plates the manufacture of which has been completed before the last day of April, 1925 ;
- (b) Rs. 26 per ton of rails or fish-plates the manufacture of which has been completed on or after the 1st day of April, 1925 and before the 1st day of April, 1926 ;
- (c) Rs. 20 per ton of rails or fish-plates the manufacture of which has been completed on or after the 1st day of April, 1926, and before the 1st day of April 1927.

4. (1) The Governor General in council may, in each of the financial years commencing on the 1st day of April, 1924, 1925 and 1926, pay such sum, not exceeding seven lakhs of rupees in any one financial year, as he thinks fit by way of bounties upon iron or steel wagons in respect of each of which he is satisfied.

(a) that it is suitable for the public carriage of animals or goods on a railway in India ; and

(b) that a substantial portion of the component parts thereof has been manufactured in British India.

(2) The Governor General in Council may, by notification in the Gazette of India, prescribe the conditions subject to which and the manner in which such bounties may be paid.

5. Notwithstanding anything contained in section 3 or section 4, no bounty in respect of steel rails, fish-plates or wagons shall be payable to or on behalf of any company, firm or other person not already engaged at the commencement of this Act in the business of manufacturing any one or other of such articles, unless such company, firm or person provides facilities to the satisfaction of the Governor General in Council for the technical training of Indians in the manufacturing processes involved in the business and, in the case of a company, unless—

(a) it has been formed and registered under the Indian Companies Act, 1913 ; and

(b) it has a share capital the amount of which is expressed in the memorandum of association in rupees ; and

(c) such proportion of the directors as the Governor General in Council has by general or special order prescribed in this behalf consists of Indians.

6. The Governor General in Council shall, before the 31st day of March, 1927, cause to be made by such persons as he may appoint in this behalf an inquiry as to the extent, if any, to which it is necessary to continue the protection of the steel industry and as to the duties and bounties which are necessary for the purpose of conferring such protection.

## THE SCHEDULE.

AMENDMENTS TO BE MADE IN SCHEDULE II TO THE  
INDIAN TARIFF ACT, 1894,

(See section 2.)

1. In the heading to Part II, after the words "liable to" the word "non-protective" shall be inserted.

2. For item No. 60 the following shall be substituted, namely :—

"IRON alloys.

„ angle, channel and tee not otherwise specified (*see* No 143).

„ bar and rod not otherwise specified (*see* No. 144).

„ pig.

„ rice bowls."

3. In Item No. 61—

(a) the second paragraph beginning with the signs and words " „ beams, joists, pillars, girders and other structural shapes" and ending with the words "door and window fittings and the like ; (*see* No. 90)" shall be omitted ;

(b) after the words "nails, rivets and washers, all sorts" the words not otherwise specified (*see* No. 145) shall be inserted ;

(c) after the words "plugs, valves, cocks and the like" the words "excluding pipes, tubes and fittings therefor otherwise specified (*see* No. 146)" shall be inserted ;

(d) for the words "IRON OR STEEL, rails, chairs, sleepers, bearing and fish-plates, spikes (commonly known as dog-spikes), switches and crossings, other than those described in No. 63 also lever-boxes, clips and tie-bars" the following shall be substituted, namely :—

"IRON OR STEEL, railway track material not otherwise specified (*see* Nos. 63 and 152) including bearing plates, sleepers and fastenings therefor, and lever-boxes ;

„ „ tramway track material, including rails, fish-plates, tie-bars, switches, crossings and the like materials of shapes and sizes specially adapted for tramway tracks " ;

(e) after the words "sheets and plates, all sorts" the words "not otherwise specified (*see* Nos. 146, 147, 148, 153 and 154)" shall be inserted ;

(f) for the words "wire, including fencing-wire, painc-wire and wire-rope, but excluding wire-netting (*see* No. 97)" the words "barbed and stradded fencing-wire and wire-rope" shall be substituted.

4. For Item No. 62, the following shall be substituted, namely :—

"62. STEEL, angle and tee not otherwise specified (*see* No. 150).

„ bar and rod not otherwise specified (*see* Nos. 151 and 153).

- „ alloy, crucible, shear, blister and tub, all kinds, and steel for springs and cutting tools made by any process.
- „ ingots, bloom and billets, and slabs of a thickness of  $1\frac{1}{2}$  inches or more.
- „ expanded metal."

5. In Item No. 63, for all the words beginning with the words "cylinders, girders and other material" ending with the words "other materials for fencing" the following shall be substituted, namely :—

"sleepers and fastenings therefor ; bearing plates, fish bolts and nuts, chairs, interlocking apparatus, brake-gear, cuplings and springs, signals, turn-tables, weighbridges carriages, wagons, traversers, trollies, and component parts thereof ; switches, crossings and the like material made of alloy steel ; also cranes and water-tanks when imported by or under the orders of a railway company."

6. In Item No. 87, for the words "CONVEYANCES, including" the word CONVEYANCES not specified in no. 142, namely," shall be substituted.

7. After Part VI the following Part shall be added namely :—

#### "PART VII.

Articles which are liable to protective duty at special rates.

No.	Name of Article.	Unit or method of assessment.	Rate of duty.
	<b>Articles wholly or mainly manufactured</b>		
	<b>CONVEYANCES.</b>		
142	COAL TUBS, tipping wagons and the like conveyances designed for use on light rail track, if adapted to be worked by manual or animal labour and if made mainly of iron or steel ; and component parts thereof made of iron or steel.	<i>Ad valorem</i>	25 per cent.
	<b>METALS—IRON AND STEEL.</b>		
143	IRON angle, channel and tee— (a) not fabricated, kinds other than galvanised, tinned or lead coated or Crown or superior qualities.	Ton	Ra. 20.
	(b) fabricated, all qualities ...	<i>Ad valorem</i>	15 per cent.
144	IRON, COMMON BAR not galvanised, tinned or lead coated.	Ton	Ra. 35.

No.	Name of Article.	Unit or method of assessment.	Rate of duty.
145	IRON OR STEEL NAILS, wire or French	Cwt.	Rs. 3.
146	IRON OR STEEL PIPES and tubes and fittings therefor, if rivetted or otherwise built up plates or sheets.	<i>Ad valorem</i>	25 per cent.
147	IRON OR STEEL PLATES not under 118 inch thick including sheets 118 inch thick or over—		
	(a) not fabricated, ship, tank bridge and common qualities.	Ton	Rs. 30.
	(b) fabricated, all qualities ...	<i>Ad valorem</i>	25 per cent.
	(c) cuttings, all qualities ...	Ton	Rs. 25.
148	IRON OR STEEL SHEETS under 118 inch thick—		
	(a) not fabricated—		
	(i) black ...	Ton	Rs. 30.
	(ii) galvanised ...	Ton	Rs. 45.
	(b) fabricated, all qualities ...	<i>Ad valorem</i>	15 per cent.
	(c) cuttings, black or galvanised ...	<i>Ad valorem</i>	15 per cent.
149	IRON OR STEEL WIRE, other than barbed or wire rope or stranded fencing wire, or wirenetting ( <i>see</i> No. 97).	Ton	Rs. 60.
150	STEEL, angle and tee, not galvanised, tinned, or lead coated and beam, channel, zed, trough plate, piling and other structural sections—		
	(a) fabricated ...	<i>Ad valorem</i>	25 per cent.
	(b) not fabricated ...	Ton	Rs. 30.
151	STEEL—BAR AND ROD.		
	common merchant bar and rod, and bar and rod designed for the reinforcing of concrete, all sizes.	Ton	Rs. 40.

No.	Name of Article.	Unit or method of assessment.	Rate of duty.
152	<b>STEEL RAILWAY TRACK MATERIAL—</b>  (a) Rails 30 lb. and over per yard and fish-plates therefor.  (b) Rails under 30 lb. per yard and fish-plates therefor.  (c) Spike and tie bars ...  (d) Switches, crossings and the like material not made of alloy steel.	Ton  Ton  Ton  <i>Ad valorem</i>	Rs. 14.  Rs. 40.  Rs. 40.  25 per cent.
153	<b>STEEL STRUCTURES</b> , fabricated partially or wholly, not otherwise specified, if made mainly or wholly of steel-bars, sections, plates or sheets, for the construction of buildings, bridges, tanks, well curbs, trestles, towers and similar structures or for parts therefor, but not including builders' hardware (see No. 9Q) or articles specified in Nos. 51, 51A., 64 or 87.	<i>Ad valorem</i>	25 per cent.
154	<b>STEEL—</b>  (a) Tinplates and tinned sheets, including tin taggers.  (b) Tinplate cuttings ...	Ton  <i>Ad valorem</i>	Rs. 60.  15 per cent."

## ACT NO XV OF 1924.

*Received the assent of the Governor-General on the 18th September 1924*

### An Act further to amend the Indian Motor Vehicles Act, 1924 for certain purposes.

WHEREAS it is expedient further to amend the Indian Motor Vehicles Act, 1914,\* for purposes hereinafter appearing ; it is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Motor Vehicles (Amendment) Act, 1924.

2. In clause (a) of sub-section (2) of section 11 of the Indian Motor Vehicles Act 1914,\* after the words "area in which" the words "and the duration for which" shall be inserted.

Amendment of section 11,  
Act VIII of 1914.

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\*VIII of 1914.



## ACT NO. XVI OF 1924.

*Received the assent of the Governor-General on the 24th September 1924.*

### An Act further to amend the Indian Post Office Act, 1898, for certain purposes.

WHEREAS it is expedient further to amend the Indian Post Office Act 1898, for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Post Office (Amendment) Act, 1924.

2. Section 17 of the Indian Post Office Act, 1898\* (hereinafter referred to as the said Act), shall be re-numbered as sub-section (1) of section 17, and to that section as re-numbered the following sub-section shall be added namely :—

Amendment of section 17,  
Act VI of 1898,

“(2) Where the Governor-General in Council has directed that prepayment of postage or other sums chargeable under this Act in respect of postal articles may be made by prepaying the value denoted by the impressions of stamping machines issued under his authority, the impression of any such machine shall likewise be deemed to be a stamp issued by Government for the purpose of revenue within the meaning of the Indian-Penal Code\*”.

3. To the *Explanation* to section 27 of the said Act the following shall be added, namely :—

Amendment of section 27,  
Act VI of 1898.

“and the impression of any stamping machine provided or authorised for the like purpose by or under the authority of the Government of such part, State or country”.

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\* VI of 1898.

† XLV of 1860.

## ACT NO. XVII OF 1924.

*Received the assent of the Governor-General on the 24th September 1924.*

### An Act to amend the Imperial Bank of India Act, 1920.

WHEREAS it is expedient to amend the Imperial Bank of India Act, 1920\*, for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Imperial Bank of India (Amendment) Act, 1924.

2. After section 13 of the Imperial Bank of India Act, 1920,\* the following section shall be inserted, namely :  
 Insertion of new section  
 13A. in Act XLVII of 1920.

" 13A. Notwithstanding anything contained in Schedule I, the Bank may, either alone or conjointly with other persons, for the purpose of averting the winding up of any company as defined in section 13 having a share capital which is expressed in rupees in its memorandum of association or of any society registered under the Co-operative Societies Act, 1912,\* or, where any such company or society is being wound up, of facilitating the winding up, advance or lend money to, or open a cash credit in favour of, such company or society or the liquidators thereof, as the case may be, for any period upon the security of all or any of the assets whatsoever of such company or society."

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\* XLVII of 1920.

† II of 1912.

## ACT NO. XVIII OF 1924.

*Received the assent of the Governor-General on the 24th September 1924*

**An Act further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for the purpose of affording greater protection to persons under the age of eighteen years.**

WHEREAS it is expedient further to amend the Indian Penal Code\* and the Code of Criminal Procedure, 1898,† for the purpose of affording greater protection to persons under the age of eighteen years ; It is hereby enacted as follows :—

Short title and Com- 1. (1) This Act may be called the Indian  
mencement. Criminal Law Amendment Act, 1924.

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the Gazette of India, appoint.

2. In sections 372 and 373 of the Indian Penal Code,\* for the words  
Amendment of sections "minor under the age of eighteen years with  
372 and 373, Act XLV of intent that such minor shall be employed or used  
1860. for the purpose of prostitution, or for any unlaw-  
ful and immoral purpose or knowing it to be likely that such minor  
will be" the words "person under the age of eighteen years with intent  
that such person shall at any age be employed or used for the purpose of  
prostitution or illicit intercourse with any person or for any unlawful and  
immoral purpose, or knowing it to be likely that such person will at any  
age be" shall be substituted.

Further amendment of 3. To section 372 of the same Code the fol-  
section 372, Act XLV of lowing *Explanations* shall be added, namely :  
1860.

*Explanation I.*—When a female under the age of eighteen years is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the country is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

*Explanation II.*—For the purposes of this section "illicit intercourse" means sexual intercourse between persons not united by marriage or by any union or tie which, though not amounting to a marriage, is recognised by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a *quasi-marital* relation."

\* XLV of 1860.

† V of 1898.

Further amendment of section 373, XLV of 1860. 4. To section 373 of the same Code the following *Explanations* shall be added, namely :—

*“Explanation I.*—Any prostitute, or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession of a female under the age of eighteen years, shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

*Explanation II.*—‘Illicit intercourse’ has the same meaning as in section 372.”

5. In section 552 of the Code of Criminal Procedure, 1898, for the word “fourteen” the word “sixteen” shall be substituted.  
Amendment of section 552, Act V of 1898,

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## ACT NO. XIX OF 1924

*Received the assent of the Governor-General on the  
30th September 1924.*

**An Act to consolidate, amend and extend the law relating to the levy of duties of customs on articles imported or exported by land from or to territory outside India.**

WHEREAS it is expedient to consolidate, amend and extend the law relating to the levy duties of customs on article imported or exported by land from or to territory outside India ; It is hereby enacted as follows :—

Short title, extent and commencement,	1. (1) This Act may be called the Land Customs Act, 1924.
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(2) It extends to the whole of British India (except Aden).

(3) It shall come into force on such date as the Governor-General in Council may, by notification in the Gazette of India, appoint.

Definitions.	2 In this Act, unless there is anything repugnant in the subject or context,—
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- (a) any reference to the passing or import or export of goods "by land" shall be deemed to include the passing or import or export of goods by any inland waterway constituting a foreign frontier or part of a foreign frontier ;
- (b) "Chief Customs-authority" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924, and includes, in relation to any power or duty which the Governor-General in Council may, by notification in the Gazette of India, transfer from the Central Board of Revenue to a Local Government, the Local Government or such officer as the Local Government may appoint in that behalf ;
- (c) "Collector of Land Customs" means a Collector of Land Customs appointed under section 3 ;
- (d) "dutiable goods" means any article on which duty of land customs is leviable by virtue of a notification issued under section 5 of the Indian Tariff Act, 1894\* ;
- (e) "foreign frontier" means the frontier separating any foreign territory from any part of British India ;
- (f) "foreign territory" means any territory (other than territory forming part of a State in India) which has been declared under section 5 of the Indian Tariff Act, 1894, to be foreign territory for the purposes of that Act ;

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\* VIII. of 1894.

(g) "land customs area" means any area adjoining a foreign frontier for which a Collector of Land Customs has been appointed under section 3 ; and

(h) "official Gazette" means, in relation to a notification issued by a Local Government, the local official Gazette, and, in relation to a notification issued by the Central Board of Revenue, the Gazette of India.

3. (1) The Governor-General in Council may by notification in the Gazette of India, appoint, for any area adjoining a foreign frontier and specified in the notification, a person to be the Collector of Land Customs and such other persons as he thinks fit to be Land Customs Officers.

(2) The Governor General in Council may delegate to any Local Government or to the Chief Customs-authority any power conferred upon him by sub-section (1), and the Local Government or the Chief Customs-authority may delegate to any Collector of Land Customs any power to appoint Land Customs Officers which has been so delegated to it.

Establishment of land customs stations and determination of routes.

4. The Chief Customs-authority may by notification in the official Gazette,—

(a) establish land customs stations for the levy of land customs in any land customs area ; and •

(b) prescribe the routes by which alone goods, or any class of goods specified in the notification, may pass by land out of or into any foreign territory, or to or from any land customs station from or to any foreign frontier.

5. (1) Every person desiring to pass any goods, whether dutiable goods or not, by land out of or into any foreign territory shall apply in writing in such form as the Chief Customs-authority may by notification in the Gazette prescribe, for a permit for the passage thereof, to the Land Customs Officer in charge of a land customs station established in a land customs area adjoining the foreign frontier across which the goods are to pass.

(2) When the duty on such goods has been paid or the goods have been found by the Land Customs Officer to be free of duty, the Land Customs Officer shall grant a permit certifying that duty has been paid on such goods or that the goods are free of duty, as the case may be.

(3) Any Land Customs Officer, duly empowered by the Chief Customs-authority in this behalf, may require any person in charge of any goods which such Officer has reason to believe to have been imported, or to be about to be exported, by land from, or to, any foreign territory to produce the permit granted for such goods ; and any such goods which are dutiable and which are unaccompanied by a permit or do not correspond with the specification contained in the permit produced, shall be detained and shall be liable to confiscation :

Provided that nothing in this sub-section shall apply to any imported

goods passing from a foreign frontier to a land customs station by a route prescribed in that behalf.

(4) The Customs-authority may, by notification in the official Gazette, direct that the provisions of this section, or any specified provisions thereof, shall not, in any land customs area specified in the notification, apply in respect of goods of any class or value so specified.

6. A land Customs Officer empowered in this behalf by the Chief Customs-authority shall pass free of duty any Personal baggage. goods imported or exported by land by any passenger, if he is satisfied that the goods are the passenger's personal baggage in actual use.

Penalties.

7. Any person who—

- (a) in any case in which the permit referred to in section 5 is required, passes or attempts to pass any goods by land out of or into any foreign territory through any land customs station without such permit, or
- (b) conveys or attempts to convey to or from any foreign territory or to or from any land customs station any goods by route other than the route, if any, prescribed for such passage under this Act, or
- (c) aids in so passing or conveying any goods, or knowing that any goods have been so passed or conveyed, keeps or conceals such goods or permits or procures them to be kept or concealed,

shall be liable to a penalty not exceeding, where the goods are not dutiable, fifty or, where the goods or any of them are dutiable, one thousand rupees, and any dutiable goods in respect of which the offence has been committed shall be liable to confiscation.

8. No goods other than personal baggage or goods belonging to Government or mails shall be delivered or passed at any land customs station, except with the special permission of the Land Customs officer in charge thereof.—  
Goods not to be passed on certain days or at certain times.

(a) on any public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881,\* or on any day on which the passage and delivery of goods at such land customs station has been prohibited by the Chief Customs-authority by notification in the official Gazette, or

(b) on any day except between such hours as the Chief Customs-authority may, by a like notification, appoint.

9. (1) The provisions of the Sea Customs Act, 1878, which are specified in the Schedule, together with all notifications, orders, rules or forms issued, made or prescribed thereunder, shall, so far as they are applicable, apply for the purpose of the levy of duties of land customs  
Application of Act VIII of 1878.

\* XXVI of 1881.

under this Act in like manner as they apply for the purpose of the levy of duties of customs on goods imported or exported by sea.

(2) For the purpose of such application the said provisions, notifications, orders, rules and forms may be construed with such alterations as may be necessary or proper to adapt them for the said purpose, but not so as otherwise to affect the substance thereof, and in particular—

- (a) references to bills of entry and to shipping bills shall be deemed to be references, respectively, to applications for permits to import and applications for permits to export such as are referred to in section 5,
- (b) references to a Chief Customs-officer shall be deemed to be references to a Collector of Land Customs,
- (c) references to a Customs-collector shall be deemed to be references to a Land Customs Officer for the time being in charge of a land customs station or duly authorized to perform all, or any special duties of an officer so in charge,
- (d) references to a custom-house shall be deemed to be references to a land customs station,
- (e) references to a customs-port shall be deemed to be references to a land customs area,
- (f) references to a foreign port shall be deemed to be references to foreign territory,
- (g) references to goods brought by sea to, and to goods shipped or brought for shipment at, a customs-port shall be deemed to be references respectively to goods brought across a foreign frontier into a land customs area and to goods brought to a land customs station for export,
- (h) references to Officers of Customs shall be deemed to be references to Collectors of Land Customs or Land Customs Officers appointed under this Act,
- (i) references to persons on board of any vessel or boat in any port or to persons landing shall be deemed to be references to persons who have entered a land customs area from foreign territory, and
- (j) references to "this Act" shall be deemed to be references to the Sea Customs Act, 1878,\* as applied for the purposes of this Act, or to this Act, as the case may require.

10. Notwithstanding anything contained in section 8 of the Indian Traffic Act 1894,† nothing in the Madras Inland Customs Act, 1844,‡ on in the Bombay Land-Customs Act, 1857,§ shall apply in respect of the levy or collection of duties of customs on articles imported or exported by land from or to any foreign territory as defined in this Act.

Operation of Acts VI of 1844 and XXIX of 1857.

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\* VIII of 1878. † VIII of 1894. ‡ VI of 1844. § XXIX of 1857.



## THE SCHEDULE.

(See Section 9.)

*Provision of the Sea Customs Act, 1878, which are made applicable for the purpose of the levy of duties of land customs.*

Sections 4, 8 to 10, 21, 23, 25, 26, 29 to 36, 37 (except the proviso), 38 to 40, section 167, Nos 1, 8, 9, 37 to 40 and 72 to 80, sections 169 to 176, 178 to 181, 182 to 184, 186 to 197 and 200 to 204.

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# ACTS OF INDIAN LEGISLATURE FOR 1925.

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## ACT NO. I OF 1925.

RECEIVED THE GOVERNOR-GENERAL'S ASSENT ON THE  
9TH FEBRUARY, 1925.

*An Act to amend the India Merchant Shipping Act, 1923,  
for a certain purpose.*

Whereas it is expedient to amend the Indian Merchant Shipping Act, 1923,\* for a certain purpose ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Merchant Shipping (Amendment) Act, 1925.

2. In sub-section (2) of section 245 of the Indian Merchant Shipping Act, 1923,\* after clause (b) the following clause shall be inserted, namely :—  
Amendment of section 245, Act XXI of 1923.

“(c) the charging of fees for the grant of the certificate referred to in sub-section (4) of section 243, the amount of such fees and the manner in which they shall be recoverable.”

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## ACT NO. II OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON THE  
11TH FEBRUARY 1925.

*An Act further to amend the Indian Paper Currency Act, 1923.*

Whereas it is expedient further to amend the Indian Paper Currency Act, 1923,† for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Paper Currency (Amendment) Act, 1925.

2. In sub-section (4) of section 19 of the Indian Paper Currency Act, 1923,† for the words “eight hundred and fifty” the words “one thousand” shall be substituted and to the same sub-section the following proviso shall be added, namely :—  
Amendment of section 19, Act X of 1923.

“provided that the value of created securities included in the said securities at the price at which they were purchased shall not exceed five hundred millions of rupees.”

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\* Act 21 of 1923.

† Act 10 of 1923.

## ACT NO. III OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL  
ON THE 11th, FEBRUARY 1925.

*An Act to repeal certain enactments whereby breaches of contract by labourers are made punishable under the criminal law.*

WHEREAS it is expedient to repeal certain enactments whereby breaches of contract by labourers are made punishable under the criminal law; It is hereby enacted as follows:—

Short title and commencement.	1. (1) This Act may be called the Workmen's Breach of Contract (Repealing) Act, 1925.
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(2) It shall come into force on the first day of April, 1926.

Repeals.	2. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.
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### THE SCHEDULE.

#### ENACTMENTS REPEALED.

(See section 2.)

Year.	No.	Short title.	Extent of repeal.
1859	XIII.	The Workman's Breach of Contract Act, 1859.	The whole.
1860	XLV.	The Indian Penal Code.	Sections 490 and 492.
1897	XIV.	The Indian Short Titles Act, 1897.	So much of the Schedule as relates to the Workman's Breach of Contract Act, 1859.
1920	XII.	The Workman's Breach of Contract (Amendment) Act, 1920.	The whole.
1920	XXXVIII.	The Devolution Act, 1920.	So much of the First Schedule as relates to the Workman's Breach of Contract Act, 1859.

## ACT NO. IV OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON  
THE 26TH FEBRUARY, 1925.

*An Act to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under special conditions.*

Whereas it is expedient to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under special conditions ; It is hereby enacted as follows :—

Short title, extent and commencement.      1. (1) This Act may be called the Indian Soldiers (Litigation) Act 1925.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on the first day of April, 1925.

Definitions.      2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "Court" means a Civil or Revenue Court ;

(b) "Indian soldier" means any person subject to the Indian Army Act, 1911 ;\*

(c) "prescribed" means prescribed by rules made under this Act ; and

(d) "proceeding" includes any suit, appeal or application.

Circumstances in which an Indian soldier shall be deemed to be serving under special conditions.      3. For the purposes of this Act, an Indian soldier shall be deemed to be or, as the case may be, to have been serving—

(a) under special conditions when he is or has been serving under war conditions, or overseas, or at any place in Persia, Tibet, Afghanistan, Kashmir, Nepal or China, or with any unit the headquarters of which are situated at any place in Chitral Waziristan, the North-West Frontier Province or British Baluchistan which is more than fifty miles distant by road from the nearest railway station ;

(b) under war conditions—when he is or has been, at any time during the continuance of any hostilities declared by the Governor General in Council by notification in the Gazette

of India to constitute a state of war for the purposes of this Act or at any time during a period of six months thereafter,—

- (i) serving out of India,
  - (ii) under orders to proceed on field service,
  - (iii) serving with any unit which is for the time being mobilised, or
  - (iv) serving under conditions which, in the opinion of the prescribed authority, preclude him from obtaining leave of absence to enable him to attend a Court as a party to any proceeding, or when he is or has been at any other time serving under conditions service under which has been declared by the Governor General in Council by notification in the Gazette of India to be service under war conditions and
- (c) over seas—in relation to any place in British India, other than Aden when he is or has been serving in Aden or in any place outside India (other than Ceylon) the journey between which and British India is ordinarily undertaken wholly or in part by sea, and, in relation to Aden, when he is or has been serving in any place other than Aden

Particulars to be furnished in complaints, applications or appeals to Court.

4 If any person presenting any plaint, application or appeal to any Court has reason to believe that any adverse party is an Indian soldier who is serving under special conditions, he shall state the fact in his plaint, application

or appeal.

Power of Collector to intervene in case of unrepresented Indian soldier.

5 If any Collector has reason to believe that any Indian soldier, who ordinarily resides or has property in his district and who is a party to any proceeding pending before any Court, is unable to appear therein, the Collector may certify the facts in the prescribed manner to the Court.

Notice to be given in case of unrepresented Indian soldier.

6. If a Collector has certified under section 5, or if the Court has reason to believe that an Indian soldier, who is a party to any proceeding pending before it, is unable to appear therein, and if the soldier is not represented by any person duly authorised to appear, plead or act on his behalf, the Court shall suspend the proceeding, and shall give notice thereof in the prescribed manner to the prescribed authority :

Provided that the Court may refrain from suspending the proceeding and issuing the notice if—

- (a) the proceeding is a suit, appeal or application instituted or made by the soldier, alone or conjointly with others with the object of enforcing a right of preemption, or

(b) the interests of the soldier in the proceeding are, in the opinion of the Court, either identical with those of any other party to the proceeding and adequately represented by such other party or merely of a formal nature.

7. If, on receipt of a notice under section 6 the prescribed authority certifies in the prescribed manner to the Court in which the proceeding is pending that the soldier in respect of whom the notice was given is serving under special conditions, and that a postponement of the proceeding in respect of the soldier is necessary in the interests of justice, the Court shall thereupon postpone the proceeding in respect of the soldier for the prescribed period, or, if no period has been prescribed, for such period as it thinks fit.

8. If, after issue of a notice under section 6, the prescribed authority either certifies that the soldier is not serving under special conditions or that such postponement is not necessary, or fails to certify, in the case of a soldier resident in the district in which the Court is situate, within two months or in any other case, within three months from the date of the issue of the notice that such postponement is necessary, the Court may, if it thinks fit, continue the proceeding.

9. When any document purporting to be signed by the Commanding Officer of an Indian soldier who is a party to any proceeding is produced by or on behalf of the soldier before the Court in which the proceeding is pending and is to the effect that the soldier—

(a) is on leave of absence for a period not exceeding two months and is on the expiration of his leave to proceed on service under special conditions, or

(b) is on sick leave for a period not exceeding three months, and is on the expiration of his leave to rejoin his unit with a view to proceeding on service under special conditions,

the proceeding in respect of such soldier may, in any case such as is referred to in the proviso to section 6, and shall, in any other case, be postponed in the manner provided in section 7.

10 (1) In any proceeding before a Court in which a decree or order has been passed against any Indian soldier whilst he was serving under war conditions or at any time after the 1st day of April, 1925, whilst he was serving under any special conditions, the soldier may apply to the Court which passed the decree or order for an order to set aside the same and if the Court, after giving an opportunity to the opposite party of being heard, is satisfied that the interests of justice require that the decree or order should be set aside as against the soldier, the Court shall, subject to such conditions, if any, as it thinks fit to impose, make an order accordingly.

(2) No such application shall be entertained unless it is made within two months from the expiry of the first period of thirty days, after the date of the decree or order, or where the summons or notice was not duly served on the applicant, after the date on which the applicant had knowledge of the decree or order, during no part of which the soldier was serving under special conditions :

Provided that the provisions of section 5 of the Indian Limitation Act, 1908,\* shall apply to such applications

(3) When the decree or order in respect of which an application under sub-section (1) is made is of such a nature that it cannot be set aside as against the soldier only, it may be set aside as against all or any of the parties against whom it has been made.

(4) Where a Court sets aside a decree or order under this section, it shall appoint a day for proceeding with the suit, appeal or application, as the case may be.

11. In computing the period of limitation prescribed by the Indian Limitation Act, 1908,\* or any other law for the modification of law where time being in force for any suit, appeal or of limitation where time being in force for any suit, appeal or Indian soldier serving application to any Court any party to which is under war or special or has been an Indian soldier, the time during conditions is a party. which the soldier has been serving under war conditions since the 4th day of August, 1914, or under any special conditions since the 1st day of April, 1925, shall be excluded.

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of pre-emption.

12. If any Court is in doubt whether, for the purposes of section 10 or section 11, any Indian soldier is or was at any particular time serving under war or other special conditions, it may refer the point for the decision of the prescribed authority, and the certificate of that authority shall be conclusive evidence on the point.

13. The Local Government, after consulting the High Court, may, by Rule-making power. notification in the local official Gazette, make rules to provide for all or any of the following matters, namely :—

- (a) the manner and form in which any notice or certificate under this Act shall be given ;
- (b) the period for which proceedings or any class of proceedings shall be postponed under section 7 ;
- (c) the persons who shall be the prescribed authorities for the purposes of this Act ;

- (d) any other matter which is to be or may be prescribed ; and  
 (e) Generally, any matters incidental to the purposes of this Act.

14. The Governor-General in Council may, by notification in the Gazette of India, direct that all or any of the provisions of this Act shall apply to any other class of persons in the service of His Majesty specified in such notification in the same manner as they apply to Indian soldiers.

15. The Indian Soldiers (Litigation) Act, 1918\* and the Indian Soldiers Litigation (Amendment) Act, 1924,† are hereby repealed.

Repeal of Acts IX of 1918 and XII of 1924,

## ACT NO. V OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON THE  
 1ST MARCH 1925.

*An Act further to amend the Indian Income-tax Act, 1922.*

Whereas it is expedient further to amend the Indian Income-tax Act, 1922, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Income-tax (Amendment) Act, 1925.

2. To section 56 of the Indian Income-tax Act, 1922,‡ the following proviso shall be added, namely :—  
 Amendment of section 56, Act XI of 1922.

“ Provided that, in computing the total income of a member of a registered firm, where any change occurs in the constitution of the firm, the profits or gains of the firm during the previous year shall be deemed to have been received in that year by the members of the firm as constituted at the time of the making of the assessment to super-tax in proportion to their shares in the firm at that time.”

\* IX of 1918.

† XII of 1924.

‡ XI of 1922.



**ACT NO. VI OF 1925.**

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL  
ON THE 3RD MARCH, 1925.

*An Act to determine the salary of the President of the Legislative Assembly.*

Whereas it is provided by sub-section (5) of section 63C of the Government of India Act that an elected President of the Legislative Assembly shall receive such salary as may be determined by Act of the Indian Legislature ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Legislative Assembly (President's Salary) Act, 1925.

Salary of elected President.  
mensem.

2. (1) There shall be paid to the elected President of the Legislative Assembly a salary calculated at the rate of four thousand rupees per

(2) The elected President of the Legislative Assembly shall not during his tenure of that office practise any profession or engage in any trade or undertake for remuneration any employment other than his duties as President of the Legislative Assembly.

**ACT NO. VII OF 1925.**

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE  
10TH MARCH, 1925.

*An Act to amend the Cantonments Act, 1924*

Whereas it is expedient to Amend the Cantonments Act, 1924, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Cantonments (Amendment) Act, 1925.

Amendment of section 2, Act II of 1924.

2. In section 2 of the Cantonments Act, 1924 (hereinafter referred to as the said Act),—

(a) in clause (xii) for the words "Military Works-officer" the words "officer of the Military Engineer Services" shall be substituted ; and

- (b) in clauses (xix) and (xxxvi) the words "with the previous sanction of the Governor General in Council" shall be omitted.

Amendment of section  
14, Act II of 1924.

3 In section 14 of the said Act—

- (a) in clause (e) of sub section (1) after the word "nominated" the words "by name" shall be inserted ;  
(b) in clause (f) of the said sub-section for the word "appointed" the word "constituted" shall be substituted ; and  
(c) in sub-section (2) for the words "nomination or appointment" the words "or nomination" shall be substituted.

Amendment of section  
28, Act II of 1924.

4. In section 28 of the said Act—

- (a) in sub-section (1) after the word "being" the words "a stipendiary Magistrate or" shall be inserted ; and  
(b) in clause (c) of sub-section (2) the words "stipendiary Magistrate or" shall be omitted.

Insertion of new section 36A in Act II of 1924.

5 After section 36 of the said Act the following section shall be inserted, namely :—

" 36A. Every officer or servant, permanent or temporary, of a Cantonment Authority shall be deemed to be a public servant within the meaning of the Indian Penal Code, and in the definition of ' Legal remuneration ' in section 161 of that Code the word ' Government ' shall, for the purposes of this section, be deemed to include a Cantonment Authority."

Insertion of new section 116A in Act II of 1924.

6. After section 116 of the said Act the following section shall be inserted, namely :—

" 116A. A Cantonment Authority may, subject to any conditions imposed by the Governor General in Council, manage any property entrusted to its management by the Governor General in Council on such terms as to the sharing of rents and profits accruing from such property as may be determined by rule made under section 280."

Amendment of section  
126, Act II of 1924.

7. In section 126 of the said Act—

- (a) after the word "Authoriy" where it occurs for the first time, the words "in a ruinous state or" shall be inserted ;  
(b) after the word "enclosure" the words "a nuisance or" shall be inserted ; and

(c) after the words "owner thereof" the words "either to remove the same or" shall be inserted.

8. In sub-section (2) of section 176 of the said Act, for the words "Commanding Officer of that cantonment" the words "Officer Commanding the station" shall be substituted.

Amendment of section 176, Act II of 1924.

9. In sections 218 and 233 of the said Act, for the words "Military Works", wherever they occur, the words "Military Engineer" shall be substituted.

Amendment of sections 218 and 233, Act II of 1924.

10. In sections 235 and 237 of the said Act, for the words "Commanding Officer of a cantonment" the words "Officer Commanding the station" shall be substituted.

Amendment of sections 235 and 237, Act II of 1924.

11. In section 272 of the said Act, for the words "Commanding Officer of a cantonment" the words "Officer Commanding a station" shall be substituted.

Amendment of section 272, Act II of 1924.

12. After clause (b) of sub section (2) of section 280 of the said Act, the following clause shall be inserted, namely :—

Amendment of section 280, Act II of 1924.

"(bb) the allotment to a Cantonment Authority of a share of the rents and profits accruing from property entrusted to its management under the provisions of section 116A ;"

13. In Schedule V to the said Act, in the entry in the second column against section 176 for the words "Commanding Officer of cantonment" the words "Officer Commanding the station" shall be substituted.

Amendment of Schedule V, Act II of 1924.

14. In the said Act for the words "Commanding Officer of the cantonment", wherever they occur, the words "Officer Commanding the station" shall be substituted.

Substitution of title "Officer Commanding the station."

## ACT NO VIII OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON THE  
10TH MARCH, 1925.

*An Act to give effect to certain articles of the International Convention for the Suppression of the Circulation of, and Traffic in, Obscene publication.*

Whereas it is expedient to amend certain provisions of the Indian Penal Code\* and of the Code of Criminal Procedure, 1898,† for the purpose of giving effect to the International Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications signed at Geneva on behalf the Governor-General in Council on the 12th day of September, 1923; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Obscene Publications Act, 1925.

2. For sections 292 and 293 of the Indian Penal Code\* the following Substitution of new sections shall be substituted, namely :—  
sections for sections 292  
and 293, Act XLV of  
1860.

“ 292. Whoever—

Sale, etc, of obscene  
books, etc.

(a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or,

(b) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or

(c) takes part in or receives profits from any business in the occurs of which he knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed publicly exhibited or in any manner put into circulation, or

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\* XLV of 1860.

† V of 1898.

(d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through any person or

(e) offer or attempts to do any act which is an offence under this section,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both

*Exemption.*—This section does not extend to any book, pamphlet, writing, drawing or painting kept or used *bona fide* for religious purposes or any representation sculptured, engraved, painted or otherwise represented on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.

293. Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene objects as is referred to in the last preceding section, or offers or attempts so to do, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.”

Amendment of section 98, Act V of 1898. 3 (1) in sub-section (1) of section 98 of the Code of Criminal Procedure, 1898,\*—

(i) after the words “ kept or deposited in any place ” the following paragraph shall be inserted, namely :—

“ or, if a District Magistrate, Sub-divisional Magistrate or a Presidency Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit, sale, manufacture or production of any obscene object such as is referred to in section 292 of the Indian Penal Code† or that any such obscene objects are kept or deposited in any place ;”

(ii) in clause e), after the word “ materials ” the words “ or of any such obscene objects ” shall be inserted ;

(iii) in clause (d), after the word “ materials ” the words “ or such obscene objects ” shall be inserted ; and

(iv) in clause e), after the words “ or materials,” where they first occur, the words “ or such obscene objects ” shall be inserted, and after the words “ or for forging ” the following words shall be added, namely :—

“ or the said obscene objects to have been or to be intended to be sold, let to hire, distributed, publicly exhibited circulated, imported or exported”.

(2) In the Second Schedule to the same Code,—

(i) for the entries in column 8 against sections 292 and 293 the words “ Presidency Magistrate, or Magistrate of the first class,” shall be substituted :

(ii) for the entry in column 2 against section 293 the words “ Sale etc., of obscene objects to young persons ” shall be substituted ; and

(iii) for the entry in column 7 against the same section the words “ Imprisonment of either description for 6 months, or fine, or both ” shall be substituted.

(3) In the Fifth Schedule to the same Code, in Form IX, after the words “ or seals, or coins ” the words “ or obscene objects ” shall be inserted.

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## ACT NO. IX OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL  
ON THE 14th MARCH, 1925.

*An Act further to amend the Indian Ports Act, 1908.*

Whereas it is expedient further to amend Indian Ports Act, 1908,\* for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Ports (Amendment) Act, 1925.

Amendment of section 6, Act XV of 1908.

2. In sub-section (1) of section 6 of the Indian Ports Act, 1908, after clause (ee), the following clause shall be added, namely :—

“(eee) for regulating the bunkering of vessels with liquid fuel in in any such port and the description of barges, pipe lines or tank vehicles to be employed in such bunkering ;”

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\* Act XV of 1908.

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## ACT NO. X OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL  
ON THE 18th MARCH, 1925.

*An Act to amend the Cantonments' House-Accommodation) Act, 1923*

Whereas it is expedient to amend the Cantonments (House-Accommodation) Act, 1923,\* for the purposes hereinafter appearing; It is hereby enacted as follows :—

- |   |   |
|---|---|
| Short title   | 1. This Act may be called the Cantonments (House-Accommodation Amendment) Act, 1925.  |
| Amendment of section 2, Act VI of 1923.               | 2. In sub-section (1) of section 2 of the Cantonments House-Accommodation) Act, 1923 (hereinafter referred to as the said Act),—  |
|   | (a) in clause (b) for the word "Committtee" the word "Board" shall be substituted;  |
|   | (b) after clause (b) the following clause shall be inserted, namely :—  |
|   | (bb) 'Cantonment Board' means a Cantonment Board constituted under the Cantonments Act, 1924.†  |
|   | (c) in clause (g) for the words "a Cantonment Magistrate" the words "an officer of the Cantonments Department" shall be substituted.  |
| Amendment of sections 17 and 22, Act VI of 1923.      | 3. In section 17 and in clause (a) of sub-section (1) of section 22 of the said Act, for the words "Military Works," wherever they occur, the words "Military Engineer" shall be substituted. |
| Amendment of section 34, Act VI of 1923.              | 4. In section 34 of the said Act, for the words "under the Cantonments Act, 1910, or any rule made thereunder" the following shall be substituted namely :—                                   |
|   | "in accordance with a bye law made under clause (2) of section 282 of the Cantonments Act, 1924."   |
| Amendment of section 37, Act VI of 1923.              | 5. In section 37 of the said Act, for the word "Commitee" the word "Board" shall be substituted.  |
| Substitution of title Officer Commanding the station. | 6. For the words "Commanding Officer of the Cantonment," wherever they occur in the said Act, the words 'Officer Commanding the station' shall be substituted.                                |

## ACT NO. XI OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL  
ON THE 18<sup>TH</sup> MARCH 1925.

*An Act further to amend the Indian Merchant Shipping Act, 1923,  
for certain purposes.*

Whereas it is expedient further to amend the Indian Merchant Shipping Act, 1923,\* for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Merchant Shipping (Second Amendment) Act, 1925.

Amendment of section 203, Act XXI of 1923.

2 In section 203 of the Indian Merchant Shipping Act, 1923\* (hereinafter referred to as the said Act),—

(a) in sub-section (1), for the words "Every pilgrim ship, proceeding from any port in British India other than Aden to any port in the Red Sea, shall touch at Aden and shall not leave," the words "Any officer empowered by the Local Government in this behalf may, by order in writing, require any pilgrim ship, proceeding from any port in British India other than Aden to any port in the Red Sea, to touch at Aden and not to leave" shall be substituted ; and

(b) in sub section (2), after the word "ship" the words "in respect of which an order has been made under this section" shall be inserted, and for the words "by this section" the words "under this section" shall be substituted.

3. In section 204 of the said Act, for the words "The authority at Aden empowered to grant the certificate required under section 203", the words "Where any pilgrim ship touches at Aden in compliance with an order made under section 203, the authority at Aden empowered to grant the certificate required under that section" shall be substituted.

4. In section 205 of the said Act, in clause (a) after the word "shall" the words "if so required by an order under section 203" shall be inserted, and for the words and figures "by section 203" the words "under that section" shall be substituted.

Insertion of new section 208A in Act XXI of 1923.

5. After section 208 of the said Act the following section shall be inserted, namely :—



Conditions for securing  
return passages for pil-  
grims.

“208A. No pilgrim shall be received on board any pilgrim ship at any port or place in British India for conveyance in the lowest class available on the ship, unless he—

(a) is in possession of a return ticket, or

(b) has deposited with the prescribed person such sum for the purpose of defraying the cost of a return ticket as the Governor General in Council may specify by notification in the Gazette of India :

Provided that this prohibition shall not apply in the case of any such pilgrim who has made a declaration on oath or affirmation in such form as may be prescribed, before an authority appointed in this behalf by the Local Government, that he does not intend to return to India within three years after the date of declaration.”

Amendment of section  
209, Act XXI of 1923.

6. In section 209 of the said Act,—

(a) to sub-section (1) the following proviso shall be added, namely :—

“Provided that no pilgrim to whom the prohibition contained in section 208A applies shall be entitled to, or shall be provided with, a ticket other than a return ticket unless he has made the deposit required by that section”; and

(b) in sub-section (2), for the words “shall be entitled to the refund of any passage-money he may have paid, subject to any conditions or deductions which may be prescribed” the following shall be substituted, namely :—

“shall, subject to any conditions or deductions which may be prescribed, be entitled to the refund of any passage-money which he may have paid, and of any deposit which he may have made in compliance with the provisions of section 208A ; and if any pilgrim who has paid for a return ticket or made such deposit dies in the Hedjaz or on the voyage thereto, or does not return to British India before the expiration of one year from the date on which he paid for the return ticket or made such deposit the person nominated by him in writing in the prescribed manner or, if no person has been so nominated, his legal representative or the pilgrim himself, as the case may be shall, if the pilgrim was in possession of a return ticket, be entitled to the refund, subject as aforesaid, of half the passage-money paid by the pilgrim or, if the pilgrim had made a deposit, be entitled to the refund unconditionally of the whole of the deposit made by him.”

Insertion of new section  
209A in Act XXI of  
1923.

7. After section 209 of the said Act the following section shall be inserted, namely :—

"209A. (1) Port-clearance shall not be granted from any port in British India to any pilgrim ship unless or until the master, owner or agent and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond for the sum of ten thousand rupees, conditioned that, if any pilgrim who has been carried to the Hedjaz by that ship with a return ticket issued in British India within the previous eighteen months is owing to his inability to obtain accomodation on a ship for which the return ticket is available, detained at Jeddah for a longer period than twenty-five days from the day on which he presents his ticket to the British Consul at Jeddah, notifying his desire to embark for the return passage the master, owner or agent aforesaid shall pay to the Local Government in respect of such pilgrim such sum not exceeding double the whole sum received by such master, owner or agent in respect of the return ticket as the Local Government claims as the cost of repatriating the pilgrim, together with a sum of one rupee for each day after the expiry of the twenty-five days aforesaid during which the pilgrim has been detained at Jeddah :

Provided that, for the purpose of computing the said period of twenty-five days, no period shall be taken into account during which the ship is prevented from carrying pilgrims on the return passage by reason of the port of Jeddah having been declared by proper authority to be infected or by reason of war disturbance or any other cause not arising from any act or default of the master, owner or agent.

(2) A certificate of such detention purporting to be made and signed by the British Consul at Jeddah shall be received in evidence in any Court in British India without proof of the signature or of the official character of the person who has signed the same."

Amendment of section 8. In sub-section (1) of section 213 of the 213, Act XXI of 1923. said Act, —

(a) after clause (o) the following clause shall be inserted, namely:—

"(oo) the manner in which deposits shall be made for the purposes of section 208A, and any matter in respect of which provision is, in the opinion of the Governor General in Council, necessary or expedient for the purpose of giving effect to the provisions of that section ;"

(b) in clause (q), after the word "passage-money" the words "and of deposits made under section 208A" shall be inserted, and to the same clause after the words "pilgrim ship" the words "and the refund of passage-money or deposits to the nominees and legal representatives of pilgrims who have died in the Hedjaz or on the voyage thereto, or to pilgrims who do not return to British India within the period provided in section 209 or to the nominees of such pilgrims and the manner in which persons shall be nominated for the purpose of entitling them to such refunds," shall be added : and

(c) after clause (q) the following clause shall be inserted, namely:—

"(qq) the period after which unclaimed passage-money and deposits liable to be refunded shall lapse to Government, and the purposes to which sums so lapsing shall be applied."

## ACT NO XII OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL  
ON THE 18th MARCH 1925.

*An Act to provide for the better regulation of cotton ginning and  
cotton pressing factories.*

Whereas it is expedient to provide for the better regulation of cotton ginning and cotton pressing factories ; It is hereby enacted as follows :—

Short title, extent and commencement.      1. (1) This Act may be called the Cotton Ginning and Pressing Factories Act, 1925.

(2) It extends to the whole of British India except Burma), including British Beluchistan and the Sonthal Parganas.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions.      2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) "bale" means any pressed package of cotton of whatever size or density ;
- (b) "cotton" means ginned or unginned cotton, or cotton waste ;
- (c) "cotton ginning factory" means any place where cotton is ginned or where cotton fibre is separated from cotton seed by any process whatever involving the use of steam, water or other mechanical power or of electrical power ;
- (d) "cotton pressing factory" means any factory as defined in the Indian Factories Act, 1911,\* in which cotton is pressed into bales ;
- (e) "cotton waste" means droppings, strippings, fly and other waste products of a cotton mill or of a cotton ginning factory or of a cotton pressing factory, but does not include yarn waste ;
- (f) "Indian Central Cotton Committee" means the Indian Central Cotton Committee constituted under the Indian Cotton Cess Act, 1923.† and includes any sub-committee appointed by it to perform any function of the Indian Central Cotton Committee under this Act : and
- (g) "Occupier" includes a managing agent or other person authorised to represent the occupier :
- (h) "prescribed" means prescribed by or under rules made under this Act.

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\* 12 of 1911.

† 14 of 1923.

3. (1) The owner of every cotton ginning factory shall cause to be maintained, at the factory in such form, if any, as may be prescribed, a ginning register containing a record of all cotton ginned in the factory and of the names of the persons for whom and the dates on which the cotton has been ginned and of the amount ginned for each person.

(2) The owner of every cotton pressing factory shall cause to be maintained at the factory in such form, if any, as may be prescribed, a press register containing a daily record of the number of bales pressed in the factory, the serial number of each bale, and the name of the person for whom it has been pressed.

(3) The owner or the person in charge of a cotton ginning or cotton pressing factory shall be bound to produce any ginning register or press register maintained under this section when required to do so by any person appointed by the Local Government in this behalf, and the owner or person in charge of any cotton pressing factory shall be bound to furnish to the Indian Central Cotton Committee, if so required by it in writing, a copy, certified as correct by the owner or person in charge of the factory of the entry in any press register maintained at the factory relating to any specified bale.

(4) No register required to be maintained by this section shall be destroyed until after the expiration of three years from the date of the last entry therein.

(5) If—

- (a) in any factory any register required by this section to be maintained is not maintained or is maintained in any form other than the form, if any, prescribed for the purpose, or
- (b) any entry in any such register is proved to be false in any material particular, or
- (c) any such register is destroyed before the expiration of the period referred to in sub-section (4),

the owner of the factory shall be punished with fine which may extend to fifty rupees or, if he has previously been convicted of any offence under this sub-section, to five hundred rupees.

(6) If the owner or the person in charge of any factory fails to produce any register, or to furnish a certified copy of any entry, when required to do so under sub-section (3), or furnishes a certified copy of an entry knowing or having reason to believe such copy to be false, he shall be punished with fine which may extend to fifty rupees or, if he has previously been convicted of any offence under this sub-section, to five hundred rupees.

4. (1) The owner of every cotton pressing factory shall cause every bale pressed in the factory to be marked in such manner as may be prescribed, before it is removed from the press-house, with a serial number and with the mark prescribed for the factory.

(2) If any bale is removed from the press-house of any cotton pressing factory without having been marked as required by sub-section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees.

5. (1) The owner of every cotton pressing factory shall submit to the prescribed authority, within such time and in such form as may be prescribed, weekly returns showing the total number of bales of cotton pressed during the preceding week and from the commencement of the season to the end of that week, and the approximate average net weight of the bales pressed in that week.

(2) The Local Government shall compile from the weekly returns, and shall publish in such manner as the Governor General in Council may direct, a statement showing the total number of bales pressed in the province during the week and from the commencement of the season to the end of the week, to which the returns relate :

Provided that the number of bales pressed in any individual factory shall not be published.

(3) If default is made in submitting any return as required by sub-section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees

(4) Where the owner of a cotton pressing factory has notified to the prescribed authority that the work of pressing bales in that factory has been suspended, it shall not be necessary for the owner to submit returns under sub-section (1) until such work has been resumed

*Explanation.*— In this section ‘ season ’ means the period notified in this behalf by the Local Government in the local official Gazette

6 (1) No scales or weights shall be used in any cotton ginning or cotton pressing factory other than the scales or weights if any, prescribed by the Local Government as standard for the district in which the factory is situated.

(2) If in any factory any scale or weight is used in contravention of the provisions of sub-section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees or, if he has been previously convicted of any offence under this sub-section, to five hundred rupees

7. (1) Where the owner of a cotton ginning or pressing factory has leased the factory for a period of not less one month, in the case of a cotton ginning factory or three months, in the case of a cotton pressing factory, and the lessor retains no interest in the management or profits of the factory and notice of the lease has been given by the lessor and the lessee to the prescribed authority, the lessee shall be deemed to be the owner of the factory, from the date of the notice and for the period

of the continuance of the lease, for the purposes of section 3, in respect of the registers maintained or to be maintained from that date and for that period and for the purposes of sections 4, 5 and 6.

(2) On the termination of the lease the lessee shall hand over to the lessor the registers maintained under section 3, and the lessor shall forthwith report to the prescribed authority any default of the lessee in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 3.

(3) If default is made in handing over any register or making any report as required by this section, the lessor or the lessee, as the case may be, shall be punished with fine which may extend to fifty rupees.

8. (1) On a transfer of the ownership of a cotton ginning or pressing factory, the transferor shall hand over to the transferee the registers maintained under section 3, and the transferee shall forthwith report to the prescribed authority any default of the transferor in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 3.

(2) If default is made in handing over any register or making any report as required by sub-section (1), the transferor or the transferee, as the case may be, shall be punished with fine which may extend to fifty rupees.

9. (1) In the case of cotton ginning factories the construction of which is commenced after the commencement of this Act—

Structural requirements for factories.

(a) gin-houses shall be provided with separate entrances and exists for the bringing in of unginmed and the taking out of ginned cotton respectively, and

(b) the factories shall be constructed in accordance with plans and specifications approved by the prescribed authority :

Provided that nothing in this sub-section shall apply to any factory in which only roller gins are used where the number of such gins is not more than four.

(2) Within such period after the commencement of this Act as may be prescribed, the owner of every cotton pressing factory in which cotton is handled on the ground floor shall cause the press-house to be paved or provided with other suitable flooring to the satisfaction of the prescribed authority.

(3) If the owner of any factory fails to comply with any provision of this section which is applicable to the factory, he shall be punished with fine which may extend to one hundred rupees.

(4) (a) Where the owner of a factory has been convicted under sub-section (3), the prescribed authority may serve on the owner of the factory an order in writing directing that such alterations shall be made in the factory, before a specified date, as in the opinion of the said authority are necessary to secure compliance with the provisions of sub-section (1) or sub-section (2), as the case may be.

(b) Where the alterations are not made in accordance with the order served under clause (a) of this sub-section, the prescribed authority may serve on the owner and on the occupier, if any, of the factory an order in writing directing that the work of ginning or pressing cotton in such factory shall be suspended until the alterations have been made in accordance with the order served under clause (a) of this sub-section and the owner and the occupier if any, shall be jointly and severally liable to fine which may extend to fifty rupees for each day on which cotton is ginned or pressed in the factory in contravention of the order served under this clause

10. Where the person guilty of an offence under this Act is a company, every director, manager, secretary and other officer thereof who is knowingly a party to the default shall also be guilty of the like offence and liable to the like punishment.

11. (1) No prosecution under this Act shall be instituted except by or with the previous sanction of the District Magistrate or a Chief Presidency Magistrate or a Magistrate of the first class specially empowered in this behalf by the Local Government.

(2) No offence punishable under this Act shall be tried by any Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class.

12. The Governor General in Council may make rules to provide for—

- (a) the allotment of a special mark to be used by each pressing factory for the purpose of the marking of bales ;
- (b) the manner in which bales shall be marked ; and
- (c) the manner in which the weekly statements referred to in section 5 shall be published.

13. The Local Government may, by notification in the local official Gazette, make rules consistent with this Act to provide for all or any of the following matters, namely :—

- (a) the forms in which registers, records and returns are to be maintained or submitted, and the inspection of records and registers ;
- (b) the appointment of the authority to whom and the time within which the returns required by section 5 shall be made ;
- (c) the weights and scales to be used in cotton ginning and cotton pressing factories in any district in the province, and the inspection of the same ;
- (d) the appointment of authorities for the purposes of sections 7, 8 and 9 ;

- (e) the manner of service of orders made under section 9 ;
- (f) the powers of entry and inspection which may be exercised by District Magistrates or by any officer specially empowered in this behalf by the Local Government ;
- (g) any other matter which is to be or may be prescribed or for which provision is necessary in order to carry out the purposes of this Act.

14 After the expiration of one year from the commencement of this Act, any person who has made a contract for the purchase of baled cotton may require that no bales other bales marked in accordance with section 4 shall be supplied in fulfilment of such contract, and, if he does so require, no bale not so marked shall be tenderable in fulfilment of the contract :

Provided that nothing in this section shall apply to a contract for the sale and delivery of cotton grown before, or less than one year after, the commencement of this Act.

15. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

—o—

The following Act, which was made by the Governor of Bengal under the provisions of section 72E of the Government of India Act and has received the assent of His Majesty signified by an Order of His Majesty in Council, is hereby published for general information :—

## AN ACT TO SUPPLEMENT THE ORDINARY CRIMINAL LAW IN BENGAL.

Preamble. WHEREAS it is expedient to supplement the ordinary criminal law in Bengal ;

AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act\* to the passing of this Act ;

It is hereby enacted as follows :—

Short title, commencement extent and duration. 1. (1) This Act may be called the Bengal Criminal Law Amendment Act, 1925 ;

(2) It shall come into force on such date as the Local Government may, by notification in the Calcutta Gazette, direct ;

(3) It extends to the whole of Bengal ; and

(4) It shall continue in force for five years from the date of its commencement.

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\* 5 & 6 Geo. V, c. 61 ; 6 & 7 Geo. V, 37 ; 9 & 10 Geo. V, c. 101.



2. In this Act, unless there is anything repugnant in the subject or context, "the Code" means the Code of Criminal Procedure, 1898.\*

Definition.

3. (1) The Local Government may, by order in writing, direct that any person accused of any offence specified in the First Schedule shall be tried by Commissioners appointed under this Act.

Power of Local Government to direct trial by Commissioners in certain cases.

(2) No order under sub-section (1) shall be made in respect of, or be deemed to include, any person who has been committed under the Code for trial before a High Court, but save as aforesaid an order under that sub-section may be made in respect of, or may include, any person accused of any offence specified in the First Schedule whether such offence was committed before or after the commencement of this Act.

4. (1) Commissioners for the trial of persons under this Act shall be appointed by the Local Government.

Appointment and qualification of Commissioners.

(2) Such Commissioners may be appointed for the whole of Bengal or for any part thereof, or for the trial of any particular accused person or persons.

(3) All trials under this Act shall be held by three Commissioners, of whom at least two shall be persons who at the time of appointment under this section are serving as, and have for at least three years served as or exercised the powers of, Sessions Judges or Additional Sessions Judges, or are persons qualified under sub-section (3) of section 101 of the Government of India Act, for appointment as Judges of a High Court.†

5. (1) Commissioners appointed under this Act may take cognisance of offences without the accused being committed to them for trial, and in trying accused persons, shall record evidence in the manner prescribed in section 356 of the Code, and shall, in other respects also, subject to this Act and to any rules made thereunder, follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates.

Procedure of Commissioners.

(2) In the event of any difference of opinion, among the Commissioners, the opinion of the majority shall prevail.

6. (1) The Commissioner may pass upon any person convicted by them any sentence authorised by law for the punishment of the offence of which such person is convicted.

Powers of Commissioners.

(2) If in any trial under this Act it is found that the accused person has committed any offence, whether such offence is or is not an offence specified in the First Schedule, the Commissioners may convict such person of such offence and pass any sentence authorised by law for the punishment thereof.

\* Act V of 1898.

† Vide foot-note \* on p. 23.

7. The provisions of the Code, so far only as they are not inconsistent with the provision of, or the special procedure prescribed by or under, this Act shall apply to the proceedings of Commissioners appointed under this Act, and such Commissioners shall have all the powers conferred by the Code on a Court of Session exercising original jurisdiction.

8. (1) Commissioners trying an offence under this Act may, with a view to obtaining the evidence of any person supposed to have been directly concerned in, or privy to, the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relative to the offence and to every other person concerned whether as principal or abettor in the commission thereof.

(2) Where in the case of any offence for the trial of which by Commissioners an order has been made under sub-section (1) of section 3, a pardon has before the passing of such order, been tendered to and accepted by any person under section 337 of the Code, the provisions of sub-sections (2) and (3) of that section of the Code shall apply as if the accused person had been committed for trial to the Commissioners.

(3) For the purposes of sections 330 and 339A of the Code pardons tendered under sub-section (1) and sub-section (2) shall be deemed respectively to have been tendered under sections 338 and 337 of the Code.

9. Notwithstanding anything contained in the Indian Evidence Act, 1872, when the statement of any person has been recorded by any Magistrate such statement may be admitted in evidence in any trial before Commissioners appointed under this Act if such person is dead or cannot be found, or is incapable of giving evidence, and the Commissioners are of opinion that such death, disappearance, or incapacity has been caused in the interests of the accused.

10. The Local Government may, by notification in the Calcutta Gazette, make rules consistent with this Act to provide for all or any of the following matters, namely :—

- (i) the times and places at which Commissioners appointed under this Act may sit ;
- (ii) the procedure of such Commissioners, including the appointment and powers of their President, and the procedure to be adopted in the event of any Commissioner being prevented from attending throughout the trial of any accused person ;
- (iii) the conduct of and the procedure at trials, the manner in which prosecutions before such Commissioners shall be conducted and the appointment and powers of persons conducting such prosecutions ;

- (iv) the execution of sentences passed by such Commissioners ;
- (v) the temporary custody or release on bail of persons referred to or included in any order made under sub-section (1) of section 3, and the transmission of records to the Commissioners ; and
- (vi) any matter which appears to the Local Government to be necessary for carrying into effect the provisions of this Act relating or ancillary to trials before Commissioners.

11. (1) Where, in the opinion of the Local Government, there are reasonable grounds for believing that any person—  
 Power of Local Government to deal with certain suspects.

- (i) has acted, is acting or is about to act in contravention of the provisions of the Indian Arms Act, 1878,\* or of the Explosive Substances Act, 1908 ;† or
- (ii) has committed, is committing or is about to commit any offence specified in the Second Schedule ; or
- (iii) has acted, is acting or is about to act with a view to interfere by violence or by threat of violence with the administration of justice ;

the Local Government, if it is satisfied that such person is a member, or is being controlled or instigated by a member, of any association of which the objects or methods include the doing of any of such acts or the commission of any of such offences, may, by order in writing, give all or any of the following directions, namely, that such person—

- (a) shall notify his residence and any change of residence to such authority as may be specified in the order ;
- (b) shall report himself to the police in such manner and at such periods as may be so specified ;
- (c) shall conduct himself in such manner or abstain from such acts as may be so specified ;
- (d) shall reside or remain in any area so specified ;
- (e) shall not enter, reside in, or remain in any area so specified ;
- (f) shall be committed to custody in jail ;

and may at any time add to, amend, vary or rescind any order made under this section :

Provided that such order shall be reviewed by the Local Government at the end of one year from the date of the making of the order, and shall not remain in force for more than one year unless upon such review the Local Government directs its continuance.

\* 11 of 1878.

† 6 of 1908.

(2) The Local Government in its order under sub-section (1) may direct —

(a) the arrest without warrant of the person in respect of whom the order is made at any place where he may be found by any police-officer or by any officer of Government to whom the order may be directed or endorsed by or under the general or special authority of the Local Government ;

(b) the search of any place specified in the order which in the opinion of the Local Government has been, is being, or is about to be used by such person, for the purpose for doing any act, or committing any offence, of the nature described in sub-section (1).

12. An order made under sub-section (1) of section 11 shall be served on the person in respect of whom it is made in the manner provided in the Code for service of a summons, and upon such service such person shall be deemed to have had due notice thereof.

13. (1) Any officer of Government authorised in this behalf by general or special order of the Local Government may arrest without warrant any person against whom a reasonable suspicion exists that he is a person in respect of whom an order might lawfully be made under sub-section (1) of section 11.

(2) Any officer exercising the power conferred by sub-section (1) may, at the time of making the arrest, search any place and seize any property which is, or is reasonably suspected of being used by such person for the purpose of doing any act, or committing any offence, of the nature described in sub-section (1) of section 11.

(3) Any officer making an arrest under sub-section (1) shall forthwith report the fact to the Local Government, and may, by order in writing, commit any person so arrested to custody pending receipt of the orders of the Local Government ; and the Local Government may by general or special order specify the custody to which such person shall be committed :

Provided that no person shall be detained in custody under this section for a period exceeding fifteen days save under a special order of the Local Government, and no person shall in any case be detained in custody under this section for a period exceeding one month.

14. (1) the Local Government and every officer of Government to whom any copy of any order made under section 11 has been directed or endorsed by or under the general or special authority of the Local Government may use any and every means necessary to enforce compliance with such order.

(2) Any officer exercising any of the powers conferred by section 13 may use any and every means necessary to the full exercise of such powers.

(3) No person in respect of whom any such order has been made requiring him to notify his residence or change of residence or to report himself to the police or to abstain from any specified act, shall be deemed to be under restraint for the purpose of sub-section (2).

21. The Local Government shall make to every person, who is placed under restraint by reason of an order made under sub section (1) of section 11, a monthly allowance for his support of such amount as is, in the opinion of the Local Government, adequate for the supply of his wants, and shall also make to his family, it any, and to such of his near relatives, if any, as are in the opinion of the Local Government dependent on him for support, an allowance for the supply of their wants suitable in the opinion of the Local Government to their rank in life.

Allowances to persons under restraint and their dependants.

*Explanation.*—In this section the expression “under restraint” has the same meaning as in section 20.

22. The Local Government may make rules providing for the procedure to be followed regarding the notification of residence and report to the police by persons in respect of whom orders have been made under section 11, and for the place and manner of custody of all persons arrested or committed to or detained in custody under this Act.

Power to make rules.

23. All rules made under this Act shall be published in the Calcutta Gazette, and on such publication shall have effect as if enacted in this Act.

Publication of rules.

24. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Bar to suits, prosecutions and other legal proceedings.

25. Where, prior to the commencement of this Act, anything has been done, or any action has been taken under the provisions of the Bengal Criminal Law Amendment Ordinance, 1924 which thing or action might have been done or taken under the provisions herein enacted had this Act commenced on the 25th day of October, 1924, such thing or action shall be deemed to have been done or taken under the provisions of this Act, and every consequence which would have ensued if this Act had commenced as aforesaid, and such thing or action had been done or taken thereunder, shall thereupon ensue in all respects as if this Act had so commenced and such thing or action had been so done or taken

Effect of the Act.

## THE FIRST SCHEDULE.

(See sections 3 and 6.)

Any of the following offences, if in the opinion of the Local Government there are reasonable grounds for believing that such offence has been committed by a member, or a person controlled or instigated by a member, of any association of which the objects or methods include the commission of any of such offences, namely :—

- (a) any offence punishable under any of the following sections of the Indian Penal Code, namely sections 148, 302, 304, 326, 327, 329, 332, 333, 385, 386, 387, 392, 394, 395, 396, 397, 398, 399, 400, 401, 402, 431, 435, 436, 437, 438, 440, 454, 455, 457, 458, 459, 460 and 506 ;
  - (b) any offence under the Explosive Substances Act, 1908 ;
  - (c) any offence under the Indian Arms, Act, 1878 ;
  - (d) any attempt or conspiracy to commit, or any abetment of, any of the above offences.
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## THE SECOND SCHEDULE.

(See section 11.)

(1) Any offence punishable under any of the following sections of the Indian Penal Code, namely, sections 148, 302, 304, 326, 327, 329, 332, 333, 392, 394, 395, 396, 397, 398, 399, 400, 401, 402, 431, 435, 436, 437, 438, 440, 457 and 506.

(2) Any attempt or conspiracy to commit, or any abetment of, any of the above offences.

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## ACT NO. XIII OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL  
ON THE 25TH MARCH, 1925.

*An Act to fix the duty on salt manufactured in, or imported by land into certain parts of British India, to remit or vary certain duties leviable under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to reduce the import and raise duties on motor spirit, further to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax.*

Whereas it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to remit or vary certain duties leviable under the Indian Tariff Act, 1894 to fix maximum rates of postage under the Indian Post Office Act, 1898, to reduce the import and excise duties on motor spirit, further to amend the Indian Paper Currency Act, 1923, and to fix rates of income tax ; It is hereby enacted as follows :—

Short title, extent and duration.      1. (1) This Act may be called the Indian Finance Act, 1925

(2) It extends to the whole of British India, including British Beluchistan and the Sonthal Parganas.

(3) Sections 2 and 4 shall remain in force only up to the 31st day of March, 1926.

2. (1) The provisions of section 7 of the Indian, Salt Act, 1882, shall, in so far as they enable the Governor General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma and Aden, be construed as if, with effect from the 1st day of April, 1925, they imposed such duty at the rate of one rupee and four annas per maund of eighty two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

(2) With effect from the first day of April, 1925, section 2 of the Indian Finance Act, 1924, is hereby repealed.

3. With effect from the first day of April, 1925, the amendments specified in the First Schedule to this Act shall be made in Schedule II to the Indian Tariff Act, 1894.

Amendment of Act VIII of 1894.

4. With effect from the first day of April, 1925, the Schedule contained in the Second Schedule to this Act shall be inserted in the Indian Post Office Act, 1898,\* as the First Schedule to that Act.

5. With effect from the first day of April, 1925, the following amendments shall be made in the Motor Spirit (Duties) Act, 1917,† namely—

(a) in sub-section (1) of section 3 for the words "six annas" the words "four annas" shall be substituted;

(b) section 6 shall be omitted.

Amendment Act X of 1923      6. In sub-section (7) of section 19 of the Indian Paper Currency Act, 1923,‡ for the figures "1925" the figures "1926" shall be substituted.

Income-tax and super-tax.      7 (1) Income-tax for the year beginning on the first day of April, 1925, shall be charged at the rates specified in Part I of the Third Schedule.

(2) The rates of super tax for the year beginning on the first day of April, 1925, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922,§ be those specified in Part II of the Third Schedule.

(3) For the purposes of the Third Schedule, "total income" means total income as determined, for the purposes of income-tax or super tax as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.¶

## SCHEDULE I.

Amendments to be made in Schedule II to the Indian Tariff Act, 1894.

[See section 3.]

1. After Item No. 1 the following item shall be inserted, namely :—

"A | GRAIN and PULSE, all sorts, including broken grains and pulse, but excluding flour (see No. 68)."

2. In Item No. 40, the words "and motor spirit", where they first occur in the entry in the second column, and the Note to that entry shall be omitted.

3. After Item No. 40 the following item shall be inserted, namely :—

"40A	MOTOR SPIRIT	...	...	Imperial gallon	...	Four annas."
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4. Item No. 47 and the heading thereto shall be omitted.

\* 6 of 1898,

† 2 of 1917.

‡ 10 of 1923.

§ 11 of 1922.



5. In Item No. 51, after the figures "15, 16" the figures and letter "51B" shall be inserted.

6. After Item No. 51A the following item shall be inserted, namely :—

"51B | HEALDS, HEALD CORDS, HEALD KNITTING NEEDLES, REEDS and SHUTTLES."

7. In Item No. 75, after the figures "40" the figures and letter "40A" shall be inserted.

8. In Item No. 96, for the word and figures "and 18" the figures and word "18 and 51B" shall be substituted.

## SCHEDULE II.

Schedule to be inserted in the Indian Post Office Act, 1898.

[See Section 4.]

### "THE FIRST SCHEDULE.

#### INLAND POSTAGE RATES.

[See section 7.]

##### *Letters.*

For a weight not exceeding two and a half tolas ... One anna.

For every two and a half tolas, or fraction thereof, One anna.  
exceeding two and a half tolas.

##### *Postcards.*

Single ... Half an anna.

Reply ... One anna.

##### *Book Pattern and Sample Packets.*

For every five tolas or fraction thereof ... Half an anna.

##### *Registered Newspapers.*

For a weight not exceeding eight tolas ... Quarter of an anna.

For a weight exceeding eight tolas and not exceeding Half an anna.  
twenty tolas ...

For every twenty tolas, or fraction thereof, exceeding Half an anna,  
twenty tolas.

*Parcels.*

- For a weight not exceeding twenty tolas ... Two annas.  
 For a weight exceeding twenty tolas and not exceeding forty tolas. Four annas.  
 For every forty tolas, or fraction thereof, exceeding Forty annas." forty tolas.

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 SCHEDULE III.

[See section 7.]

## PART I

*Rates of Income-tax.*

- |  | Rate.                                 |
|--|---------------------------------------|
| A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company— |                                       |
| (1) When the total income is less than Rs. 2,000.  | <i>Nil.</i>                           |
| (2) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000.   | Five pies in the rupee.               |
| (3) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000.  | Six pies in the rupee.                |
| (4) When the total income is Rs. 10,000 or upwards, but is less than Rs. 20,000.   | Nine pies in the rupee.               |
| (5) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000.   | One anna in the rupee.                |
| (6) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000.   | One anna and three pies in the rupee. |
| (7) When the total income is Rs. 40,000 or upwards.  | One anna and six pies in the rupee.   |
| B. In the case of every company and registered firm, whatever its total income.  | One anna and six pies in the rupee.   |

## PART II.

*Rates of Super-tax.*

- |  | Rate.                  |
|--|------------------------|
| In respect of the excess over fifty thousand rupees of total income:—        |                        |
| (1) in the case of every company ...   | One anna in the rupee. |
| (2) (a) in the case of every Hindu undivided family—                         |                        |
| (i) in respect of the first twenty-five thousand rupees of the excess.       | <i>Nil.</i>            |
| (ii) for every rupee of the next twenty-five thousand rupees of such excess. | One anna in the rupee. |

- (b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company, for every rupee of the first fifty thousand rupees of such excess. One aana in the rupee.
- (c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—
- (i) for every rupee of the second fifty thousand rupees of such excess. One and a half annas in the rupee.
  - (ii) for every rupee of the next fifty thousand rupees of such excess. Two annas in the rupee.
  - (iii) for every rupee of the next fifty thousand rupees of such excess. Two and a half annas in the rupee.
  - (iv) for every rupee of the next fifty thousand rupees of such excess. Three annas in the rupee.
  - (v) for every rupee of the next fifty thousand rupees of such excess. Three and a half annas in the rupee.
  - (vi) for every rupee of the next fifty thousand rupees of such excess. Four annas in the rupee.
  - (vii) for every rupee of the next fifty thousand rupees of such excess. Four and a half annas in the rupee.
  - (viii) for every rupee of the next fifty thousand rupees of such excess. Five annas in the rupee.
  - (ix) for every rupee of the next fifty thousand rupees of such excess. Five and a half annas in the rupee.
  - (x) for every rupee of the remainder of the excess. Six annas in the rupee.
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## ACT NO XIV. OT 1925.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE  
25TH MARCH, 1925.

*An Act further to amend the Indian Tariff Act, 1894.*

WHEREAS it is expedient further to amend the Indian Tariff Act, 1894,\* for the purposes hereinafter appearing: It is hereby enacted as follows :—

Short title and commencement.	1. (1) This Act may be called the Indian Tariff (Amendment) Act, 1925.
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(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint, and different dates may be appointed for different items in the Schedule.

Amendment of the Second Schedule, Act VIII of 1894.	2. In the Second Schedule to the Indian Tariff Act, 1894, there shall be made the amendments specified in the Schedule to this Act.
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### THE SCHEDULE.

(See section 2.)

1. In Item No. 9, after the words " kainit salts " the words " carbo lime-urea " shall be inserted.

2. After Item No. 10, the following item shall be inserted, namely:—  
"10-A. | Rubber, raw".

3. After Item No. 14, the following item shall be inserted, namely:—  
"14-A. | Sulphur".

4. In Item No. 15,—

(i) for the word " seed crushers " the words " seed and corn crushers " shall be substituted ;

(ii) after the word " hay-tedders " the words " potato diggers, latex sports, spraying machines " shall be inserted ; and after the word " implements " where it occurs for the second and third times the word " machines " shall be inserted.

5. After Item No. 21, the following item shall be inserted, namely :—  
"21-A. | Postage stamps, whether used or unused".

6. In Item No. 22, after the words "used gunny bags" the words "or cloth" shall be inserted.

7. For Item No. 34 the following item shall be substituted, namely :—

		Rs.	A.
"34.	Sugar, excluding confectionery (see No. 124)—		
	(1) Sugar, crystallised or soft 23 Dutch Standard and above.	cwt.	4 8
	(2) Sugar, crystallised or soft inferior to 23 Dutch Standard but not inferior to 8 Dutch Standard.	cwt.	4 0
	(3) Sugar, below 8 Dutch Standard, molasses and sugar candy.	<i>ad valorem</i> .	25 per cent

8. In Item No. 37, the words "and Cigarettes" shall be omitted.

9. After Item No. 37, the following item shall be inserted, namely :—

		Rs.	A.
"37-A.	Cigarettes of value—		
	(a) not exceeding Rs. 10—8 per thousand.	Thousand.	7 0
	(b) exceeding Rs. 10—8 per thousand.	Thousand.	10 8"

NOTE.—For the purposes of this item, 'value' means real value as defined in section 30 of the Sea Customs Act, 1878, provided that the amount to be deducted on account of duties payable on importation to determine the real value in accordance with the provisions of clause (a) of the said section shall be Rs. 7 per thousand.

10. After Item No. 45, the following item shall be inserted, namely :—

"45-A.	Silk mixtures that is to say,		
	(a) fabrics composed in part of some other textile than silk and in which any portion either of the warp or of the weft but not of both is silk ;	} <i>Ad valorem</i> .	20 per cent."
	(b) fabrics not being silk on which silk is superimposed such as embroidered fabrics ;		
	(c) articles made from such fabrics and not otherwise specified (see No. 100-A).		

11. In Item No. 53, the word "and" shall be omitted, and after the words "aeroplane engine parts", the words "and rubber tyres and tubes used exclusively for aeroplanes" shall be added.

12. (i) In Item No 61, the words "including discs and circles" shall be omitted ; and after the words "sheets and plates, all sorts" the words and brackets "(including discs and circles)" shall be inserted ; and after the figures "148" the letter and figures "148-A" shall be inserted.

(ii) To Item No. 61, the following shall be added, namely :—

“IRON or STEEL designed for the reinforcing of concrete, not otherwise specified (*see* Nos. 144 and 151).

IRON or STEEL, expanded metal”.

13. In Item No. 62, the words “STEEL expanded metal” shall be omitted.

14. In Item No. 63, after the words “brake gear” the words “shunting skids” shall be inserted, and after the word “traversers” the words “rail removers, scooters” shall be inserted.

15. In Item No. 85, after the word “silk” the words “or silk mixtures” shall be inserted, and for the word and figures “No. 134” the words, figures and letter “Nos. 100-A and 134” shall be substituted.

16. To Item No. 99, the following shall be added, namely :—

“and postage stamps, whether used or unused (*see* Nos. 21-A)”.

17. In Item No. 100, after the words “used gunny bags” the words “or cloth” shall be inserted.

18. After Item No. 100, the following item shall be inserted, namely :—

“100-A.	Silk goods used or required for medical purposes, namely :— Silk ligatures; elastic silk hosiery, elbow pieces, thigh pieces, knee caps, leggings, socks, anklets, stockings, suspensory bandages; silk abdominal belts, silkweb catheter tubes, and oiled silk”.
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19. After Item No. 105, the following item shall be inserted, namely :—

“106-A.	Fireworks specially prepared as danger or distress lights for the use of ships.”
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20. In Item No. 115, for the word and figures “No. 139” the words and figures “Nos. 53 and 139” shall be substituted.

21. To Item No. 134, the following shall be added, namely :—

“not otherwise specified (*see* Nos. 45-A and 100-A).”

22. To Item No. 135, the following shall be added, namely :—

“not otherwise specified (*see* No. 106-A).”

23. After Item No. 148, the following item shall be inserted, namely :—

“148-A.	IRON or STEEL discs and circles cut from plates or sheets of the kind specified under Nos. 147 and 148 :—	<table border="0"> <tr> <td>galvanised</td> <td>...</td> <td>...</td> <td>...</td> <td>Ton Rs. 45</td> </tr> <tr> <td>not galvanised</td> <td>...</td> <td>...</td> <td>...</td> <td>Ton Rs. 30.”</td> </tr> </table>	galvanised	...	...	...	Ton Rs. 45	not galvanised	...	...	...	Ton Rs. 30.”
galvanised	...	...	...	Ton Rs. 45								
not galvanised	...	...	...	Ton Rs. 30.”								

**ACT NO. XV OF 1925.**

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL  
ON THE 25th MARCH, 1925.

*An Act further to amend the Indian Stamp Act, 1899.*

Whereas it is expedient further to amend the Indian Stamp Act, 1899, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Stamp (Amendment) Act, 1925.

Amendment of Schedule I. Act II of 1899. 2. In Article No. 47 in Schedule I to the Indian Stamp Act, 1899, after Division C, the following Division shall be inserted, namely :—

“CC.—INSURANCE BY WAY OF INDEMNITY against liability to pay damages on account of accidents to workmen employed by or under the insurer or against liability to pay compensation under the Workmen’s Compensation Act, 1923, for every Rs. 100 or part thereof payable as premium . . . . . One anna.”

**ACT NO. XVI OF 1925.**

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL  
ON THE 25th MARCH, 1925.

*An Act further to amend the Indian Income-tax Act, 1922.*

Whereas it is expedient further to amend the Indian Income tax Act, 1922, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Income-tax (Second Amendment) Act, 1925.

Amendment of section 18, Act XI of 1922. 2. In section 18 of the Indian Income-tax Act 1922, after sub-section (2) the following sub-section shall be inserted, namely :—

“(2A) Notwithstanding anything hereinbefore contained, for the purpose of making the deduction under sub-section (2), there shall be included in the amount payable any income chargeable under the head ‘Salaries’ which is payable to the assessee out of India by or on behalf of Government, and the value in rupees of such income shall be calculated at the prescribed rate of exchange.”

**ACT NO. XVII OF 1925.**

[PASSED BY THE INDIAN LEGISLATURE.]

*Received the assent of the Governor-General on the 28th March, 1925.*

# An Act to amend the Prisons Act, 1894

Whereas it is expedient to amend the Prisons Act, 1894, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Prisons (Amendment) Act, 1925.

Amendment of section 46, Act IX of 1924.

(a) to clause (2) after the word " form " the following words shall be added, namely :—

"for such period as may be prescribed by rules made by the Governor-General in Council";

(b) in clause (8) for the word "six" the word "three" shall be substituted ;

(c) clause (11) is hereby repealed ;

(d) in clause (12) for the word "solitary" the word "cellular" shall be substituted" and the words "as defined in clause (11)" shall be omitted ; and

(e) clauses (12) and (13) shall be re-numbered, respectively, clauses (11) and (12).

Amendment of section 47, Act IX of 1894.      3 (1) Section 47 of the said Act shall be re-numbered sub-section (1) of section 47.

(2) In the said sub-section—

(a) in exception (2) for the word "solitary" the word "cellular" shall be substituted ;

(b) for exception (3) the following exception shall be substituted, namely :—

(3) cellular confinement shall not be combined with separate confinement so as to prolong the total period of seclusion to which the prisoner shall be liable ;"

• IX of 1894.



(c) after exception (4) the following exception shall be added

"(5) No punishment shall be combined with any other punishment in contravention of rules made by the Governor-General in Council."

(3) To the said section the following sub-section shall be added, namely :—

" No punishment shall be awarded for any such offence so as to combine, with the punishment awarded for any other such offence, two of the punishments which may not be awarded in combination for any such offence."

**ACT NO. XVIII OF 1925.**

[ PASSED BY THE INDIAN LEGISLATURE ]

(Received the assent of the Governor General on the 28th March, 1925.)

**An Act further to amend the Indian Cotton Cess Act, 1923.**

Whereas it is expedient further to amend the Indian Cotton Cess Act, Act, 1923,\* for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Cotton Cess (Amendment Act) 1925.

Amendment of section 8, Act XIV of 1923.

“(2) In respect of cotton exported by land on which the cess is leviable —

(a) where the cotton is exported to any territory which is foreign territory as defined in the Land Customs Act, 1924,† the cess shall be assessed by such authorities and in such manner as may be prescribed, and shall, subject to the provisions of this Act and of any rules made thereunder, for all or any of the purposes of the Land Customs Act, 1924,† be deemed to be a duty of land customs leviable under section 5 of the Indian Tariff Act, 1894 ;† and

(b) in any other case, the cess shall be assessed and levied by such authorities and in such manner as may be prescribed.

(3) The Central Board of Revenue constituted under the Central Board of Revenue Act, 1924, § may make rules providing, on such conditions as may be specified in the rules, for—

(a) the refund of the cess levied where cotton is exported by land and subsequently imported into India ; and

(b) the export by land, without payment of the cess, of cotton which is subsequently to be imported into India."

**THE BENGAL CRIMINAL LAW AMENDMENT  
(SUPPLEMENTARY) ACT, 1925.**

*(Made by the Governor General on the 30th March, 1925.)*

**An Act to supplement the Bengal Criminal Law Amendment Act, 1925.**

**WHEREAS** it is expedient to supplement the Bengal Criminal Law Amendment Act, 1925. It is hereby enacted as follows :—

**Short title.** 1. This Act may be called the Bengal Criminal Law Amendment (Supplementary) Act, 1925.

**Definitions.** 2. In this Act,—

(a) “ Code ” means the Code of Criminal Procedure, 1898,\* and

(b) “ local Act ” means the Bengal Criminal Law Amendment Act, 1925.

3. (1) Any person convicted on a trial held by Commissioners under the local Act may appeal to the High Court of Appeals and confirmations. Judicature at Fort William in Bengal, and such appeal shall be disposed of by the High Court in the manner provided in Chapter XXXI of the Code.

(2) When the Commissioners pass a sentence of death the record of the proceedings before them shall be submitted to the High Court and the sentence shall not be executed unless it is confirmed by the High Court which shall exercise, in respect of such proceedings, all the powers conferred on the High Court by Chapter XXVII of the Code

4. The power of the Local Government under sub-section (1) of section 11 of the local Act to direct by order in writing that any person shall be committed to custody in jail shall be deemed to include a Power to order custody in jail outside Bengal. power to direct, by order in writing made with the previous sanction of the Governor General in Council, that such person shall be committed to custody in any jail in British India : and, for all or any of the purposes of the local Act, an order so made shall be deemed to be an order made under section 11 of that Act, and all the provisions of that Act shall apply accordingly :

Provided that the powers exercisable by the Local Government under section 20 of the local Act in respect of any person committed to custody in a jail outside Bengal, and under section 22 of that Act to provide for the manner of custody of any such person, shall be exercised by the Local Government of the province in which the jail is situated, and rules made by such Local Government in exercise of such powers shall be published in the local official Gazette.

5. References to the local Act in sections 24 and 25 of that Act shall be deemed also to be references to the local Act as supplemented by this Act.

6. The powers conferred by section 491 of the Code shall not be exercised in respect of any person arrested, committed to or detained in custody under the local Act or the local Act as supplemented by this Act.

Bar of certain legal proceedings.

## ACT NO. XIX OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON  
THE 27<sup>TH</sup> AUGUST, 1925.

*An Act to amend and consolidate the law relating to Government and other Provident Funds.*

WHEREAS it is expedient to amend and consolidate the law relating to Government and other Provident Funds ; It is hereby enacted as follows :—

Short title, extent and commencement.      1. (1) This Act may be called the Provident Funds Act, 1925.

(2) It extends to the whole of British India including British Baluchistan.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions.      2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “ compulsory deposit ” means a subscription to, or deposit in, a Provident Fund which, under the rules of the Fund, is not, until the happening of some specified contingency, repayable on demand otherwise than for the purpose of the payment of premia in respect of a policy of life insurance, and includes any contribution credited in respect of any such subscription or deposit and any interest or increment which has accrued under the rules of the Fund on any such subscription, deposit or contribution, and also any such subscription, deposit, contribution, interest or increment remaining to the credit of the subscriber or depositor after the happening of any such contingency ;

(b) “ contribution ” means any amount credited in a Provident Fund, by “ any authority administering the Fund.”\* by way of addition to, or otherwise in respect of, a subscription to, or deposit in, the Fund ; and “ contributory Provident Fund ” means a Provident Fund the rules of which provide for the crediting of contributions ;

(c) “ dependant ” means any of the following relatives of a deceased subscriber to, or a depositor in, a Provident Fund, namely, a wife, husband, parent, child, minor brother, unmarried sister, and a deceased son's widow and child, and, where no parent of the subscriber or depositor is alive, a paternal grand-parent ;

(d) “ Government Provident Fund ” means a Provident Fund, other than a Railway Provident Fund, constituted by the authority of the Government for any class or classes of its employees or for teachers in educational institutions ;

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\* The words within quotations have been substituted by Act 28 of 1925.

(e) " Provident Fund " means a fund in which subscriptions or deposits of any class or classes of employees are received and held on their individual accounts, and includes any contributions credited in respect of such subscriptions or deposits and any interest or increment accruing on such subscriptions, deposits or contributions under the rules of the Fund.

(f) " Railway administration " means—

(i) any company administering a railway or tramway in British India either under a special Act of Parliament or of the Indian or a local Legislature, or under contract with the Secretary of State for India in Council, the Governor General in Council or a Local Government, or

(ii) the manager of any railway or tramway administered by the Governor General in Council or a Local Government,

and includes, in any case referred to in sub-clause (ii), the Governor General in Council or the Local Government, as the case may be ;

(g) " Railway Provident Fund " means a Provident Fund constituted by the authority of a railway administration for any class or classes of its employees.

3. (1) A compulsory deposit in any Government or Railway Provident Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Civil, Revenue or Criminal Court in respect of any debt or liability incurred by the subscriber or depositor, and neither the Official Assignee nor any receiver appointed under the Provincial Insolvency Act, 1920,\* shall be entitled to, or have any claim on, any such compulsory deposit.

Any sum standing to the credit of any subscriber to, or depositor in, any such Fund at the time of his decease and payable under the rules of the Fund to any dependant of the subscriber or depositor, or to such person as may be authorised by law to receive payment on his behalf, shall, subject to any deduction authorised by this Act and, save where the dependant is the widow or child of the subscriber or depositor, subject also to the rights of an assignee under an assignment made before the commencement of this Act, vest in the dependant, and shall, subject as aforesaid, be free from any debt or other liability incurred by the deceased or incurred by the dependant before the death of the subscriber or depositor.

4. (1) When under the rules of any Government or Railway Provident Fund the sum standing to the credit of any subscriber or depositor, or the balance thereof after the making of any deduction

Provisions regarding re-payments.

authorised by this Act, has become payable, the officer whose duty it is to make the payment shall pay the sum or balance, as the case may be, to the subscriber or depositor, or, if he is dead, shall—

- (a) if the sum or balance or any part thereof vests in a dependant under the provisions of section 3, pay the same to the dependant or to such person as may be authorised by law to receive payment on his behalf ; or
- (b) if the whole sum or balance, as the case may be, does not exceed five thousand rupees, pay the same, or any part thereof which is not payable under clause (a), to any person nominated to receive it under the rules of the Fund, or, if no person is so nominated to any person appearing to him to be otherwise entitled to receive it ; or
- (c) in the case of any sum or balance, or any part thereof, which is not payable to any person under clause (a) or clause (b) pay the same,—
  - (i) to any person nominated to receive it under the rules of the Fund, on production by such person of probate or letters of administration evidencing the grant to him of administration to the estate of the deceased or a certificate granted under the Succession Certificate Act 1889,\* or under the Bombay Regulation VIII of 1827, entitling the holder thereof to receive payment of such sum, balance or part, or
  - (ii) where no person is so nominated, to any person who produces such probate, letters or certificate:

Provided that, where the whole or any part of any sum standing to the credit of the subscriber or depositor has been assigned to any other person before the commencement of this Act, and notice in writing of the assignment has been received by the officer from the assignee, the officer shall, after making any deduction authorised by this Act and any payment due under clause (a) to or on behalf of the widow or children of the subscriber or depositor—

- (1) if the subscriber or depositor or, if he is dead, the person to whom in the absence of any valid assignment the sum or balance would be payable under this sub-section gives his consent in writing, pay the sum or part or the balance thereof, as the case may be, to the assignee, or
- (ii) if such consent is not forthcoming, withhold payment of the sum, part or balance, as the case may be, pending a decision of a competent Civil Court as to the person entitled to receive it.

(2) The making of any payment authorised by sub-section (1) shall be a full discharge to the Government or the railway administration, as the case may be, from all liability in respect of so much of the sum standing to the credit of the subscriber or depositor as is equivalent to the amount so paid.

5. (1) Subject to the provisions of this Act, but otherwise notwithstanding anything contained in any law for the time being in force or any disposition, whether testamentary or otherwise, by a subscriber to, or depositor in, a Government or Railway Provident Fund of the sum standing to his credit in the Fund, or of any part thereof, any nomination, duly made in accordance with the rules of the Fund, which purports to confer upon any person the right to receive the whole or any part of such sum on the death of the subscriber or depositor, shall be deemed to confer such right absolutely, until such nomination is varied by another nomination made in like manner or is expressly cancelled by the subscriber or depositor by notice given in such manner and to such authority as is prescribed by those rules.

(2) Notwithstanding anything contained in the Succession Certificate Act, 1889, or the Bombay Regulation VIII of 1827, any such person shall, on the death of the subscriber or depositor, be entitled to the grant of a certificate under that Act, or that Regulation, as the case may be, entitling him to receive payment of such sum or part, and such certificate shall not be deemed to be invalidated or superseded by any grant to any other person of probate or letters of administration to the estate of the deceased.

6. When the sum standing to the credit of any subscriber or depositor in any Government or Railway Provident Fund which is a contributory Provident Fund becomes payable, there may, if the authority "specified in this behalf in the rules of the Fund"\* so directs, be deducted therefrom and paid to "Government or the Railway Administration as the case may be"\*

(a) any amount due under a liability incurred by the subscriber or depositor to "Government or the Railway Administration,"\* but not exceeding in any case the total amount of any contributions credited to the account of the subscriber or depositor and of any interest or increment which has accrued on such contributions; or

(b) where the subscriber or depositor has been dismissed from "his employment"\* for any reasons specified in this behalf in the rules of the Fund, or where he has resigned such employment within five years of the commencement thereof, the whole or any part of the amount of any such contributions, interest and increment.

7. No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

8. The Local Government may, by notification in the local official Gazettee, direct that the provisions of this Act shall apply to any Provident Fund established for the benefit of its employees by any local authority within the meaning of the Local

\* The words within quotations have been substituted by Act 28 of 1925.

Authorities Loans Act, 1914,\* and, on the making of such declaration, this Act shall apply accordingly, as if such Provident Fund were a Government Provident Fund and such local authority were the Government

9 Nothing in section 4 or section 5 shall apply to money belonging to any estate for the purpose of the administration of which the Regimental Debts Act, 1893,† applies.

Savings as to estates of soldiers.

10. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

Repeals.

## THE SCHEDULE.

### ENACTMENTS REPEALED.

(See section 10.)

Year.	No.	Short title.	Extent of repeal.
1897	IX ...	The Provident Funds Act, 1897.	So much as has not been repealed.
1903	IV ...	The Provident Funds (Amendment) Act, 1903.	The whole.
1914	X ...	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Provident Funds Act, 1897.
1919	XIV ...	The Provident Funds (Amendment) Act, 1919.	The whole.
1920	XXXVIII	The Devolution Act, 1920.	So much of the First Schedule as relates to the Provident Funds Act, 1897.

\* IX of 1914.

† 56 & 57 Vic. ch. 5.

**ACT NO. XX OF 1925.**

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE  
11TH SEPTEMBER, 1925.

*An Act further to amend the Code of Civil Procedure, 1908.*

Whereas it is expedient further to amend the Code of Civil Procedure, 1908,\* for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1925.

Amendment of section  
60, Act V of 1908.

2. To clause (i) of the proviso to sub-section (1) of section 60 of the Civil Procedure Code, 1908,\* the following proviso shall be added, namely :—

“ Provided that where the decree-holder is a society registered or deemed to be registered under the Co-operative Societies Act, 1912,† and the judgment-debtor is a member of the society, the provisions of sub-clauses (i) and (ii) shall be construed as if the word ‘twenty’ were substituted for the word ‘forty’ wherever it occurs and the word ‘forty’ for the word ‘eighty’.”

**ACT NO. XXI OF 1925.**

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON THE  
11TH SEPTEMBER, 1925.

*An Act further to amend the Religious Endowments Act, 1863.*

Whereas it is expedient further to amend the Religious Endowments Act, 1863, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Religious Endowments (Amendment) Act, 1925.

2. In section 2 of the Religious Endowments Act, 1863‡ (hereinafter referred to as the said Act); after the words ‘and “ Court ” shall’ the words “ save as provided in section 10 ” and after the words “ district in which ” the words “ or any other Court empowered in that behalf by the Local Government within the local limits of the jurisdiction of which,” shall be inserted.

Amendment of section  
10, Act XX of 1863.

3. To section 10 of the said Act the following *Explanation* shall be added, namely :—

“ *Explanation.*—In this section ‘ Civil Court ’ means the principal Court of original civil jurisdiction in the district in which the mosques, temples or religious establishments for which the committee has been appointed or any of them are situate.”

\* V of 1908.

† II of 1912.

‡ XX of 1863.



**ACT NO. XXII. OF 1925.**

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON  
THE 11TH SEPTEMBER, 1925.

*An Act to amend the law relating to salt and salt-revenue.*

WHEREAS, by rules made under section 45A of the Government of India Act, central and provincial subjects have been classified, for the purpose of distinguishing the functions of Local Governments from the functions of the Governor General in Council, and it is, therefore, expedient to amend certain enactments in force in the Presidencies of Fort St. George and Bombay relating to salt, being a subject, classified in the aforesaid rules as a central subject, so as to vest in the Governor General in Council powers of control in respect of that subject; It is hereby enacted as follows :—

Short title and com-  
mencement.

(2) It shall come into force on such date or dates as the Governor General in Council may appoint, and different dates may be appointed for different provisions of this Act and for different parts of British India.

2. The Transport of Salt Act, 1879,\* the Madras Salt Act, 1889,† and the Bombay Salt Act, 1890,‡ are hereby amended to the extent and in the manner stated in the Schedule.

**Repeal and amendment  
of certain enactments.**

3. Any appointment, notification, rule, order, licence, pass permit or power in force before the commencement of this Act and made, issued or conferred by an authority, for the making, issuing or conferring of which a new authority is substituted by or under this Act, shall, unless inconsistent with this Act, be deemed to have been made, issued or conferred by such new authority unless and until cancelled or withdrawn or superseded by an appointment, notification, rule or order made or issued by such new authority.

Saving of rules, etc.,  
made by previous auth-  
orities.

## THE SCHEDULE.

(See Section 2.)

**PART I.—The Transport of Salt Act, 1879 (XVI of 1879).**

(1) After section 1 the following section shall be inserted, namely :—

**"1A. The 'Central Board of Revenue' means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924"**

• 18 of 1879.

† IV of 1889.

**12 of 1890.**

(2) In clauses (b) and (c) of section 3, for the words "Governor of Bombay in Council" the words "Central Board of Revenue" shall be substituted.

• (3) In the third paragraph of section 6, for the words "Local Government," the words "Governor-General in Council" shall be substituted.

## PART II.—THE MADRAS SALT ACT, 1889 (IV OF 1889.)

(1) For the word "Commissioner," wherever it occurs in the Act, the words "Collector of salt-revenue shall be substituted."

(2) In section 1, in clause (l) of section 3, and in sections 6, 9, 43, 71, 72 and 85, for the words "Governor in Council" the words "Governor-General in Council" shall be substituted.

(3) In clauses (e), (g) and (k) of section 3 and in sections 5, 7, 13, 14, 15, 32, 59 and 85A, for the words "Governor in Council" the words "Central Board of Revenue" shall be substituted.

(4) In section 3 —

(a) in clause (h) for the word "Government" the words "the Central Board of Revenue" shall be substituted ;

(b) after clause (k) the following clause shall be inserted, namely :—

" (kk) ' Central Board of Revenue ' means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 " ; and

(c) in clause (l) for the word "officer" the words "Collector of salt-revenue" shall be substituted.

(5) For section 4 the following section shall be substituted, namely :—

Appointment of Collector of salt-revenue.	" 4. Notwithstanding anything contained in Regulations I and II of 1803, the Governor-General in Council may by notification—
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(a) appoint, after consideration of any recommendation made by the Governor in Council in this behalf, a Collector of salt-revenue who shall, subject to the orders of the Central Board of Revenue, control the administration of the Salt-Department and the collection of the salt-revenue ; and

(b) withdraw from the Board of Revenue or the Collector of Land-revenue all or any of their or his powers in respect of the salt-revenue."

(6) In section 5, for the word "his" the word "its" shall be substituted.

(7) In clause (a) of section 16, for the words "the Governor in Council" the words "His Majesty" shall be substituted.

(3) In clause A of section 43, for the word and figure "section 8" the words, letter and figure "clause (c) of section 7" shall be substituted.

(9) In section 47, for the words "Whenever any officer of the Salt, Police, Land-revenue, Abkari or Customs Departments empowered by the Governor in Council in this behalf" the words "When any officer

of the Salt or Customs Departments empowered in this behalf by the Central Board of Revenue or any officer of the Police, Land-revenue or Abkari Departments empowered in this behalf by the Central Board of Revenue with the approval of the Governor in Council" shall be substituted.

(10) In section 80, for the words "Fort St. George Gazette," where they first occur, the words "Gazette of India" shall be substituted, and the proviso to the first sentence shall be omitted.

(11) Section 86 shall be renumbered sub-section (1) of section 86 and to the said section as renumbered the following sub-section shall be added, namely :—

"(2) The Governor-General in Council may, on the application of any person aggrieved by any proceeding or order of the Central Board of Revenue under this Act, reverse or modify such proceeding or order."

### PART III.—THE BOMBAY SALT ACT, 1890 (II OF 1890.)

(1) Except in clause (a) of section 3, in section 5 and in sub-sections (2) and (3) of section 57, for the words "Commissioner" and "Commissioners" wherever they occur in the Act the words "Collector" and "Collectors", respectively, shall be substituted.

(2) For clause (a) of section 3 the following clause shall be substituted, namely :—

"(a) 'Central Board of Revenue' means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924."\*

(3) In section 4—

(a) for the words "Governor in Council" the words "Governor-General in Council" shall be substituted;

(b) in sub-section (1), the words "Subject to such control of the Governor-General in Council as may be prescribed by rules made under section 45A of the Government of India Act" shall be omitted ;

(c) to sub-section (1) the following proviso shall be added, namely:—

"Provided that the Governor General in Council before appointing a Collector of Salt-revenue shall consider any recommendation made by the Governor in Council in this behalf" ; and

(d) clause (b) of sub-section (2) shall be omitted.

(4) In section 5—

(a) in sub-section (1), for the words "Commissioners to whom they are respectively subordinate and to the orders of Government", the words "Central Board of Revenue" shall be substituted ; and

(b) sub-section (2) shall be omitted.

(5) In sections 6 and 13, for the word "Government" the words "the Governor General in Council" shall be substituted.

(6) In sections 7 and 42, the words "Collector or" shall be omitted.

(7) To section 28 the following further proviso shall be added, namely :—

"Provided further that the powers conferred on Government by section 23 of the said Code shall in respect of officers of the Salt Department, be exercised by the Central Board of Revenue only."

(8) (a) In sections 10, 17, 24, 25, 36 and sub-section (1) of section 52, for the words "Governor in Council" the words "Central Board of Revenue" shall be substituted.

(b) In sections 14, 37, 58 and 59 and in sub-section (3) of section 52, for the words "Governor in Council" the words "Governor General in Council" shall be substituted.

(9) In sections 10, 36 and 60, for the words "Bombay Government Gazette" the words "Gazette of India" shall be substituted.

(10) In section 10—

(a) in clause (b) of sub-section (1) at the beginning, the words with the approval of the Governor in Council in respect of an officer of a department under the Governor in Council' shall be inserted ;

(b) in sub-section (2), for the words "him" and "Government," respectively, the word "it" shall be substituted.

(11) In section 25, for the words "he may" the words "the Governor in Council shall, on the request of the Board" shall be substituted.

(12) In section 57—

(a) in sub-section (1), the words "or a Collector" shall be omitted ;

(b) in sub-section (2), for the words "Commissioner, if any, to whom the Collector is subordinate, and, if there be no such Commissioner, to Government" the words "Central Board of Revenue" shall be substituted ; and

(c) for sub-sections (3) and (4) the following sub-section shall be substituted, namely :—

"(3) The Governor General in Council may, on the application of any person aggrieved by any order passed under this Act by the Central Board of Revenue, reverse or modify such order."

(13) To section 58, after clause (j), the following clause shall be added, namely :—

(k) the making and disposal of appeals under this Act."

(14) In section 60, the words "and, in Sind, in the Sind Official Gazette" shall be omitted.

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## ACT NO. XXIII OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL  
ON THE 11th SEPTEMBER, 1925.

*An Act to confer certain exemptions on members of legislative bodies constituted under the Government of India Act.*

Whereas it is expedient to exempt members of any legislative body constituted under the Government of India Act from liability to serve as jurors or assessors and from arrest and detention in prison under civil process at the time of meeting of such body or of a committee thereof ; It is hereby enacted as follows :—

Short title and commencement.	1. (1) This Act may be called the Legislative Members Exemption Act, 1925.
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(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Amendment of section 320, Act V of 1898.	2. After clause (a) of section 320 of the Code of Criminal Procedure, 1898, the following clause shall be inserted, namely :—
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(aa) members of either Chamber of the Indian Legislature and members of a Legislative Council constituted under the Government of India Act ;”

Insertion of new section 135A in Act V of 1908.	3 After section 135 of the Code of Civil Procedure, 1908, the following section shall be inserted, namely :—
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Exemption of members of legislative bodies from arrest and detention under civil process.	“ 135A. (1) No person shall be liable to arrest or detention in prison under civil process—
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(a) if he is a member of either Chamber of the Indian Legislature or of a Legislative Council constituted under the Government of India Act, during the continuance of any meeting of such Chamber or Council ;

(b) if he is a member of any committee of such Chamber or Council, during the continuance of any meeting of such committee ;

(c) if he is a member of either Chamber of the Indian Legislature, during the continuance of a joint sitting of the Chambers, or of a meeting of a conference or joint committee of the Chambers of which he is a member ;

and during the fourteen days before and after such meeting or sitting.

(2) A person released from detention under sub-section (1) shall, subject to the provisions of the said sub-section, be liable to rearrest and to the further detention to which he would have been liable if he had not been released under the provisions of sub-section (1).”

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## ACT NO. XXIV OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL  
ON THE 11th SEPTEMBER, 1925.

*An Act to supplement certain provisions of the Sikh Gurdwaras Act, 1925.*

Whereas it is expedient to supplement, by legislation in the Indian Legislature, certain provisions of the Sikh Gurdwaras Act, 1925,\* for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and com-      1. (1) This Act may be called the Sikh  
mencement.      Gurdwaras (Supplementary) Act, 1925.

(2) It shall come into force on the date appointed by the Local Government under sub-section (3) of section 1 of the Sikh Gurdwaras Act, 1925.\*

Validation of certain      2. The Sikh Gurdwaras Act, 1925\* (herein-  
provisions of Pun. Act      after referred to as the said Act), shall, so far as  
VIII of 1925      it adds to or takes from the jurisdiction of the  
the procedure of the      High Court of Judicature at Lahore or prescribes  
the Indian Legislature.      said Court, be as valid as if it had been passed by

Amendment of section      3. In section 12 of the said Act,—  
12, Pun. Act VIII of      1925.

- (a) in sub-section (2) after the word "president" the words "appointed by notification by the Governor-General in Council" shall be inserted;
- (b) in sub-section (4) after the words "fixed by the Local Government" the words "or in the case of the president by the Governor-General in Council" shall be inserted;
- (c) in sub-section (5) after the words "member of a tribunal" the words "other than the president" shall be inserted;
- (d) in sub-section (6) after the word "member" the words "the Governor-General in Council where the vacancy occurs in the office of president and in any other case" shall be inserted.

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\* Pun. Act 8 of 1925.



## ACT NO. XXVI OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL  
ON THE 21<sup>ST</sup> SEPTEMBER, 1925.

*An Act to amend the law with respect to the carriage of goods by sea.*

Whereas at the International Conference on Maritime Law held at Brussels in October, 1922, the delegates at the Conference, including the delegates representing His Majesty, agreed unanimously to recommend their respective Governments to adopt as the basis of a convention a draft convention for the unification of certain rules relating to bills of lading ;

And whereas at a meeting held at Brussels in October, 1923, the rules contained in the said draft convention were amended by the Committee appointed by the said Conference ;

And whereas provision has been made by the Carriage of Goods by Sea Act, 1924,\* that the said rules as so amended and as set out with modifications in the Schedule shall, subject to the provisions of that Act, have the force of law with a view to establishing the responsibilities, liabilities, rights and immunities attaching to carriers under bills of lading ;

And whereas it is expedient that like provision should be made in British India ; It is hereby enacted as follows :—

Short title and extent.      1. (1) This Act may be called the Indian Carriage of Goods by Sea Act, 1925.

(2) It extends to the whole of British India.

Application of Rules.      2. Subject to the provisions of this Act, the rules set out in the Schedule (hereinafter referred to as "the Rules") shall have effect in relation to and in connection with the carriage of goods by sea in ships carrying goods from any port in British India to any other port whether in or outside British India.

Absolute warranty of seaworthiness not to be implied in contracts to which Rules apply.      3. There shall not be implied in any contract for the carriage of goods by sea to which the Rules apply any absolute undertaking by the carrier of the goods to provide a seaworthy ship.

Statement as to application of Rules to be included in bills of lading.      4. Every bill of lading, or similar document of title, issued in British India which contains or is evidence of any contract to which the Rules apply, shall contain an express statement that it is to have effect subject to the provisions of the said Rules as applied by this Act.



Modification of Article VI of Rules in relation to goods carried in sailing ships and by prescribed routes.

5. Article VI of the Rules shall, in relation to—

(a) the carriage of goods by sea in sailing ships carrying goods from any port in British India to any other port whether in or outside British India, and

(b) the carriage of goods by sea in ships carrying goods from a port in British India notified in this behalf in the Gazette of India by the Governor-General in Council to a port in Ceylon specified in the said notification,

have effect as though the said Article referred to goods of any class instead of to particular goods and as though the proviso to the second paragraph of the said Article were omitted.

6. Where under the custom of any trade the weight of any bulk cargo

Modification of Rules 4 and 5 of Article III in relation to bulk cargoes.

inserted in the bill of lading is a weight ascertained or accepted by a third party other than the carrier or the shipper and the fact that the weight is so ascertained or accepted is stated in

the bill of lading, then, notwithstanding anything in the Rules, the bill of lading shall not be deemed to be *prima facie* evidence against the carrier of the receipt of goods of the weight so inserted in the bill of lading, and the accuracy thereof at the time of shipment shall not be deemed to have been guaranteed by the shipper.

7. (1) Nothing in this Act shall affect the operation of sections four

Saving and operation.

hundred and forty-six to four hundred and fifty, both inclusive, five hundred and two, and five hundred and three of the Merchant Shipping Act, 1894,\* as amended by any subsequent enactment or the operation of any other enactment for the time being in force limiting the liability of the owners of seagoing vessels.

(2) The Rules shall not by virtue of this Act apply to any contract for the carriage of goods by sea before such day not being earlier than the first day of January, 1926, as the Governor-General in Council may, by notification in the Gazette of India, appoint, nor to any bill of lading or similar document of title issued, whether before or after such day as aforesaid, in pursuance of any such contract as aforesaid

## SCHEDULE.

### RULES RELATING TO BILLS OF LADING.

#### ARTICLE I.

#### *Definitions.*

In these Rules the following expressions have the meanings hereby assigned to them respectively, that is to say—

(a) "Carrier" includes the owner or the charterer who enters into a contract of carriage with a shipper :

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\* 57 and 58 Vict., c. 60.

- (b) "Contract of carriage" applies only to contracts of carriage covered by a bill of lading or any similar document of title, in so far as such document relates to the carriage of goods by sea, including any bill of lading or any similar document as aforesaid issued under or pursuant to a charter party from the moment at which such bill of lading or similar document of title regulates the relations between a carrier and a holder of the same :
- (c) "Goods" includes goods, wares, merchandises, and articles of every kind whatsoever, except live animals and cargo which by the contract of carriage is stated as being carried on deck and is so carried :
- (d) "Ship" means any vessel used for the carriage of goods by sea :
- (e) "Carriage of goods" covers the period from the time when the goods are loaded on to the time when they are discharged from the ship.

## ARTICLE II.

### *Risks.*

Subject to the provisions of Article VI, under every contract of carriage of goods by sea the carrier, in relation to the loading, handling, stowage, carriage, custody, care, and discharge of such goods, shall be subject to the responsibilities and liabilities, and entitled to the rights and immunities hereinafter set forth.

## ARTICLE III.

### *Responsibilities and Liabilities.*

1. The carrier shall be bound, before and at the beginning of the voyage, to exercise due diligence to—

- (a) Make the ship seaworthy :
- (b) Properly man, equip, and supply the ship :
- (c) Make the holds, refrigerating and cool chambers, and all other parts of the ship in which goods are carried, fit and safe for their reception, carriage and preservation.

2. Subject to the provisions of Article IV, the carrier shall properly and carefully load, handle, stow, carry, keep, care for and discharge the goods carried.

3. After receiving the goods into his charge, the carrier, or the master or agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things—

- (a) The leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage :

(b) Either the number of packages or pieces, or the quantity, or weight, as the case may be, as furnished in writing by the shipper :

(c) The apparent order and condition of the goods :

Provided that no carrier, master or agent of the carrier, shall be bound to state or show in the bill of lading any marks, number, quantity or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received, or which he has had no reasonable means of checking.

4. Such a bill of lading shall be *prima facie* evidence of the receipt by the carrier of the goods as therein described in accordance with paragraph 3 (a), (b) and (c).

5. The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of shipment of the marks, number, quantity, and weight, as furnished by him, and the shipper shall indemnify the carrier against all loss, damages and expenses arising or resulting from inaccuracies in such particulars. The right of the carrier to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.

6. Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under the contract of carriage, or, if the loss or damage be not apparent, within three days, such removal shall be *prima facie* evidence of the delivery by the carrier of the goods as described in the bill of lading.

The notice in writing need not be given if the state of the goods has at the time of their receipt been the subject of joint survey or inspection.

In any event the carrier and the ship shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered.

In the case of any actual or apprehended loss or damage the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods

7. After the goods are loaded the bill of lading to be issued by the carrier, master or agent of the carrier, to the shipper shall, if the shipper so demands, be a " shipped " bill of lading, provided that if the shipper shall have previously taken up any document of title to such goods, he shall surrender the same as against the issue of the " shipped " bill of lading, but at the option of the carrier, such document of title may be noted at the port of shipment by the carrier, master, or agent with the name or names of the ship or ships upon which the goods have been shipped and the date or dates of shipment, and when so noted the same shall for the purpose of this Article be deemed to constitute a " shipped " bill of lading.

8. Any clause, covenant or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to or in connection with goods arising from negligence, fault or failure in the duties

and obligations provided in this Article or lessening such liability otherwise than as provided in these Rules, shall be null and void and of no effect.

A benefit of insurance or similar clause shall be deemed to be a clause relieving the carrier from liability.

#### ARTICLE IV.

##### *Rights and Immunities*

1. Neither the carrier nor the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy, and to secure that the ship is properly manned, equipped and supplied, and to make the holds, refrigerating and cool chambers and all other parts of the ship in which goods are carried fit and safe for their reception, carriage and preservation in accordance with the provisions of paragraph 1 of Article III.

Whenever loss or damage has resulted from unseaworthiness, the burden of proving the exercise of due diligence shall be on the carrier or other person claiming exemption under this section.

2. Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from—

- (a) act, neglect or default of the master, mariner, pilot or the servants of the carrier in the navigation or in the management of the ship :
- (b) fire, unless caused by the actual fault or privity of the carrier :
- (c) perils, dangers and accidents of the sea or other navigable waters :
- (d) act of God :
- (e) act of war :
- (f) act of public enemies :
- (g) arrest or restraint of princes, rulers or people, or seizure under legal process :
- (h) quarantine restriction :
- (i) act or omission of the shipper or owner of the goods, his agent, or representative :
- (j) strikes or lock-outs or stoppage or restraint of labour from whatever cause, whether partial or general :
- (k) riots and civil commotions :
- (l) saving or attempting to save life or property at sea :
- (m) wastage in bulk or weight or any other loss or damage arising from inherent defect, quality, or vice of the goods :
- (n) insufficiency of packing :
- (o) insufficiency or inadequacy of marks :
- (p) latent defects not discoverable by due diligence :

(g) any other cause arising without the actual fault or privity of the carrier, or without the fault or neglect of the agents or servants of the carrier, but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage

3 The shipper shall not be responsible for loss or damage sustained by the carrier or the ship arising or resulting from any cause without the act, fault or neglect of the shipper, his agents or his servants.

4. Any deviation in saving or attempting to save life or property at sea, or any reasonable deviation shall not be deemed to be an infringement or breach of these Rules or of the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom.

5. Neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with goods in an amount exceeding 100% per package or unit, or the equivalent of that sum in other currency, unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading.

This declaration if embodied in the bill of lading shall be *prima facie* evidence, but shall not be binding or conclusive on the carrier.

By agreement between the carrier, master or agent of the carrier and the shipper another maximum amount than that mentioned in this paragraph may be fixed, provided that such maximum shall not be less than the figure above named.

Neither the carrier nor the ship shall be responsible in any event for loss or damage to or in connection with goods if the nature or value thereof has been knowingly mis-stated by the shipper in the bill of lading.

6. Goods of an inflammable, explosive or dangerous nature to the shipment whereof the carrier, master or agent of the carrier, has not consented, with knowledge of their nature and character, may at any time before discharge be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the shipper of such goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment.

If any such goods shipped with such knowledge and consent shall become a danger to the ship or cargo, they may in like manner be landed at any place or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any.

#### ARTICLE V.

##### *Surrender of Rights and Immunities, and Increase of Responsibilities and Liabilities.*

A carrier shall be at liberty to surrender in whole or in part all or any of his rights and immunities or to increase any of his responsibilities and liabilities under the Rules contained in any of these Articles, provided such surrender or increase shall be embodied in the bill of lading issued to the shipper.

The provisions of these Rules shall not be applicable to charterparties, but if bills of lading are issued in the case of a ship under a charterparty they shall comply with the terms of these Rules. Nothing in these Rules shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average.

#### ARTICLE VI.

##### *Special Conditions.*

Notwithstanding the provisions of the preceding Articles, a carrier, master or agent of the carrier, and a shipper shall in regard to any particular goods be at liberty to enter into any agreement in any terms as to the responsibility and liability of the carrier for such goods, and as to the rights and immunities of the carrier in respect of such goods, or his obligation as to seaworthiness, so far as this stipulation is not contrary to public policy, or the care or diligence of his servants or agents in regard to the loading, handling, stowage, carriage, custody, care and discharge of the goods carried by sea, provided that in this case no bill of lading has been or shall be issued and that the terms agreed shall be embodied in a receipt which shall be a non-negotiable document and shall be marked as such.

Any agreement so entered into shall have full legal effect :

Provided that this Article shall not apply to ordinary commercial shipments made in the ordinary course of trade, but only to other shipments where the character or condition of the property to be carried or the circumstances, terms and conditions under which the carriage is to be performed, are such as reasonably to justify a special agreement.

#### ARTICLE VII.

##### *Limitations on the Application of the Rules.*

Nothing herein contained shall prevent a carrier or a shipper from entering into any agreement, stipulation, condition, reservation or exemption as to the responsibility and liability of the carrier or the ship for the loss or damage to or in connection with the custody and care and handling of goods prior to the loading on and subsequent to the discharge from the ship on which the goods are carried by sea.

#### ARTICLE VIII.

##### *Limitation of liability.*

The provisions of these Rules shall not affect the rights and obligations of the carrier under any Statute for the time being in force relating to the limitation of the liability of owners of sea-going vessels.

#### ARTICLE IX.

The monetary units mentioned in these Rules are to be taken to be gold value.

## ACT NO. XXVII OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL  
ON THE 21st SEPTEMBER, 1925.

*An Act further to amend the Opium Act, 1857.*

Whereas it is expedient further to amend the Opium Act, 1857, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title and com-      1. (1) This Act may be called the Opium  
mencement.                      (Amendment) Act, 1925.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette in India, appoint

Amendment of Act      2. The Opium Act, 1857,\* is hereby amended  
XIII of 1857.                      to the extent and in the manner mentioned in  
the Schedule.

3 Any appointment, notification, order, rule or form made, issued  
Saving of appoint-      or sanctioned, before the commencement of this  
ments, etc., made by      Act by an authority for the making, issuing or  
previous authorities.      sanctioning of which a new authority is substi-  
tuted by or under this Act shall, unless inconsis-  
ent with this Act, be deemed to have been made, issued or sanctioned  
by such new authority unless and until superseded by an appointment,  
notification, order, rule or form made, issued or sanctioned by such new  
authority.

4. The entries in the Schedule to the United Provinces Board of  
Revenue Act, 1922,† relating to the Opium Act,  
Repeal.                      1857,\* are hereby repealed.

### THE SCHEDULE.

(See section 2.)

*Amendments to be made in the Opium Act, 1857.\**

1. For section 3 the following section shall be substituted, namely :—

“3. (1) The Governor General in Council, after consideration of any  
Appointment of officers      recommendation made in this behalf by the  
to superintend provision      Local Government of the province for which  
of opium.                      the appointment is to be made, may appoint  
Opium Agents to superintend the provision of  
opium for Government.

\* Act XIII of 1857.

† U. P. Act XII of 1922.

(2) The Governor General in Council may appoint officers to assist the Opium Agents, under the designation of Deputy Agents, district opium officers, assistant opium officers, or such other designations as he may think fit, and may delegate to the Opium Agents the power of appointing all or any of such officers

(3) Unless the Governor-General in Council, after consideration of any recommendation made by the Local Government in this behalf, otherwise directs, the Collector shall be Deputy Agent for his district.

(4) The Governor-General in Council may by rule prescribe the powers and duties of officers appointed under this section."

2. In sections 4, 5, 8, 12, 13 and 15, for the words " the Board of Revenue " the word " Government " shall be substituted.

3. For section 6 the following section shall be substituted, namely :—

<p>Power of Government to appoint officer to conduct suits.</p>	<p>6. Government may take upon itself, or entrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which Government or an Agent, or any other officer subordinate to Government, may be engaged, instead of leaving such superintendence to the Agent or any other officer."</p>
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4. In section 7, —

(a) the words " The Board of Revenue with the sanction of " shall be omitted ;

(b) for the words " With the like sanction they " the word " Government " shall be substituted ; and

(c) in the last paragraph, for the words the Board of Revenue " the word " Government " shall be substituted.

5. In sections, 8, 9, 10, 11, 12, 18, 21, 23 and 26, for the words " Sub-deputy Agents " and " Sub-deputy Agent " the words " district opium officers " and " district opium officer," respectively, shall be substituted.

6. In section 11, for the words " other district officers " the words " other officers duly authorised to receive such opium " and for the words " of the district , ' the word " other , ' shall be substituted.

7. In section 12, for the words " other district officer " the words " other officer authorised as aforesaid ", and for the words ' district officer ', where they occur in the second paragraph, the words " receiving officer " shall be substituted.

8. In sections 13 and 14, for the word " district " the word " receiving " shall be substituted.



9. In section 15,—

(a) for the words “ district officer ” the words “ district opium officer ”, and

(b) in the third paragraph, for the words “ the Board ” the word “ Government ”

shall be substituted.

10. In section 16, for the words “ district officers ” the words “ district opium officers or other officers duly authorised in this behalf ”, and for the words “ district officer ” where they occur in two places the words “ adjusting officer ” shall be substituted.

11. In section 18, for the words “ other district district officer on his behalf ” the words “ other officer duly authorised in this behalf ” shall be substituted.

12. In section 22, for the words “ sub-deputies ” the words “ the district opium officers ” shall be substituted

13. In section 30, for the words “ Board of Revenue ” the words “ Opium Agent ” and for the word “ them ” the word “ him ” shall be substituted.

14. In section 31, for the words “ Sub Deputy Opium Agent ” the words “ district opium officer ” shall be substituted.

15. After section 31, the following section shall be added, namely :—

Meaning of “ Govern-  
ment.”  
Meaning of “ Govern-  
ment of India.”

“ 32. In this Act, except in section 23, where the word occurs for the first time, and in section 29, ‘ Government ’ means the Govern-

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## ACT NO. XXVIII. OT 1925.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE  
21<sup>ST</sup> SEPTEMBER, 1925.

*Act to amend the Provident Funds Act, 1925.*

Where as it is expedient to amend the Provident Funds Act, 1925, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title and com-      1. (1) This Act may be called the Provident  
mencement.      Funds (Amendment) Act, 1925.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Amendment of section      2. In clause (b) of section 2 of the Provi-  
2, Act XIX of 1925.      dent Funds Act, 1925 (hereinafter referred to as  
the said Act', for the words "the authority by  
which the Fund has been constituted" the words "any authority admin-  
istering the Fund" shall be substituted.

Amendment of section      3. In section 6 of the said Act,—  
6, Act XIX of 1925.

(a) for the words "by which the Fund has been constituted" the words "specified in this behalf in the rules of the Fund",

(b) for the words "that authority", where they occur for the first time, the words "Government or the Railway administration, as the case may be",

(c) in clause (a), for the words "that authority" the words "Government or the Railway administration", and

(d) in clause (b), for the words "the employment of that authority" the words "his employment"

shall be substituted.

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## ACT NO XXIX OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON THE

23RD SEPTEMBER 1925.

*An Act further to amend the Indian Penal Code.*

Whereas it is expedient further to amend the Indian Penal Code ;  
It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Penal Code (Amendment) Act, 1925.

2. In section 375 of the Indian Penal Code (hereinafter referred to as the said Code), in clause *Fifthly* for the word "twelve" the word "fourteen" shall be substituted, and in the *Exception* for the word "twelve" the word "thirteen" shall be substituted.

Amendment of section 375, Act XLV of 1860.

3. To section 376 of this said Code the following shall be added, namely :—

" unless the woman raped is his own wife and is not under twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both."

4. Notwithstanding anything contained in section 2 sexual intercourse by a man with his own wife is not rape although the wife has not attained the age of thirteen years, if he was married to her before the date on which this Act comes into operation and she had attained the age of twelve years on that date.

Amendment of Schedule II, Act V of 1893.

5. In Schedule II to the Code of Criminal Procedure, 1898, for the entries against section 376 the following entries shall be substituted, namely :—

*"Of Rape."*

376	Rape—	Shall not arrest without warrant.	Summons.	Bailable.	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Chief Presidency Magistrate or District Magistrate.
	If the sexual intercourse was by a man with his own wife not being under 12 years of age.	Shall not arrest without warrant.	Summons.	Bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
	If the sexual intercourse was by a man with his own wife being under 12 years of age.	May arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

## ACT NO. XXX OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON  
THE 23rd SEPTEMBER 1925.

*An Act further to amend the Indian Limitation Act, 1908.*

Whereas it is expedient further to amend the Indian Limitation Act, 1908,\* for the purposes hereinafter appearing ; it is hereby enacted as follows :—

Short title and commencement,	1 (1) This Act may be called the Indian Limitation (Amendment) Act, 1925.
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(2) It shall come into force on the first day of April, 1926.

Amendment of Article 5 of First Schedule to Act IX of 1908.	2. In the First Division of the First Schedule to the Indian Limitation Act, 1908 (hereinafter called the said Act).—
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(a) after Article 4 the heading "*Part IV.—One year.*" shall be inserted ;

(b) in Article 5—

( i ) to the entry in the first column the following shall be added, namely :—

"where the provision of such summary procedure does not exclude the ordinary procedure in such suits and under Order XXXVII of the said Code ;"

( ii ) for the entry in the second column the entry "One year," shall be substituted ; and

( c ) the heading *Part IV,—“One year”* after Article 5 shall be omitted.

3. In the Third Division of the First Schedule to the said Act, in Amendment of article 159 of First Schedule to Act IX of 1908.	the entry in the first column of Article 159, after the figures and letter " 128 (2) ( f ) " the words and figures "or under Order XXXVII " shall be inserted.
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\* IX of 1908,

## ACT NO. XXXI OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON  
THE 23RD SEPTEMBER 1925.

*An Act to provide for the grading of coal and for the grant of certificates for coal intended for export.*

Whereas it is expedient to provide for the grading of coal and for the grant of certificates for coal intended for export ; It is hereby enacted as follows :—

Short title and extent.      1. (1) This Act may be called the Coal Grading Board Act, 1925.

(2) It extends to the whole of British India.

Definitions.      In this Act unless there is anything repugnant in the subject or context,—

(a) ‘ Board ’ means the Coal Grading Board constituted under section 3 ;

(b) ‘ export ’ means the shipment of coal as cargo from a port in British India ;

(c) ‘ graded colliery ’ means a colliery the grade of all or any of the seams or of a part of any seam of which has been determined under the provisions of section 4 and is entered in the grade list maintained in accordance with the provisions of section 5 ;

(d) ‘ prescribed ’ means prescribed by rules made under this Act ; and

(e) ‘ secretary ’ means the secretary of the Board appointed under sub-section (4) of section 3.

3. (1) As soon as may be after the commencement of this Act, the Governor General in Council shall cause to be constituted a Board consisting of the following members, namely :—

(a) the Chief Mining Engineer to the Railway Board ; and

(b) four persons nominated respectively by the Indian Mining Association, the Indian Mining Federation, the Bengal Chamber of Commerce and the Bengal National Chamber of Commerce :

Provided that, if within the period prescribed in this behalf any such body fails to make any nomination which it is entitled to make under this subsection, the Governor General in Council may himself appoint a member or members, as the case may be, to fill the vacancy or vacancies.

(2) The Board so constituted shall be a body corporate by the name of the Coal Grading Board, having perpetual succession and a common seal with power to acquire and hold property both moveable and immoveable and to contract and shall by the said name sue and be sued.

(3) The Chief Mining Engineer to the Railway Board shall be *ex-officio* President of the Board.

(4) The secretary of the Board shall be a person, not being a member of the Board, appointed by the Board.

4. (1) On the application of any colliery and on payment of the prescribed fee, the Board shall, in such manner as may be prescribed, determine the grade of coal of all or any of the seams or of a part of a seam of such colliery, and shall by notice in writing inform the colliery of the grade so determined.

Power to grade collieries, to revise grading and to grant certificates.

(2) The colliery may, within thirty days from the receipt of the said notice, lodge with the Board an objection to the order passed under sub-section (1) determining the grade of any coal, and the Board shall, on payment of the prescribed fee and after further inspection and analysis, decide such objection; the decision of the Board shall be final and shall not be questioned in any Court.

(3) Where the grade of any coal has been determined under the provisions of this section, the Board shall, on the request of the colliery, furnish a certificate in the prescribed form, specifying the grade of such coal.

5. (1) The Board shall maintain a grade list, in such form and containing such particulars as may be prescribed, of coal the grade of which has been determined in accordance with the provisions of section 4. but shall not enter in such list any coal in respect of which the colliery has, after the determination or decision of the Board under sub-section (1) or sub-section (2) of section 4, given notice in writing that such coal should not be entered in the grade list.

Maintenance and publication of grade list.

(2) The grade list shall be published in such manner as may be prescribed.

6. (1) On the application of any graded colliery desiring to export coal and on payment of the prescribed fee; the Board shall, if it is satisfied after such inspection as it may deem necessary with the quality and condition of the coal, grant a certificate of shipment in the prescribed form.

Grant of export certificate.

(2) Such fee shall not exceed one anna per ton of coal.

7. Any member of the Board and any person authorised in this behalf by the Board may, for the purposes of this Act, enter at any time in and upon any colliery, storage bin, truck, vehicle, vessel or other place where there is coal and inspect, test and take sample of such coal.

Powers on inspection.

8. Notwithstanding anything to the contrary in any law for the time being in force, a rebate of any charges, including freight, fees, tolls, dues or rates, may be granted in respect of coal for which a certificate of shipment has been granted under the provisions of section 6, and, subject to such restriction as may be prescribed, preference may be given in the supply of wagons for forwarding coal for export from a graded colliery,

Application of fees. 9. Subject to such conditions as may be prescribed, the proceeds of fees received by the Board shall be applied to meeting the expenses of the Board.

10. No act done or proceeding taken under this Act shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Board.

11. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

Power of the Governor General in Council to make rules. 12. (1) The Governor General in Council may, after previous publication, by notification in the Gazette of India, make rules for the purpose of carrying into effect all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) for prescribing the time within which nominations shall be made under section 3, whether in the first instance or on occurrence of vacancies ;
- (b) for prescribing the term of office of members of the Board ;
- (c) for prescribing the circumstances in which and the authority by which any member may be removed from the Board ;
- (d) for regulating the appointment of officers of and the keeping and publication of accounts by the Board ;
- (e) for prescribing the procedure on application under section 4 and the principles for grading coal ;
- (f) for prescribing the form of and particulars to be entered in and manner of publication of the grade list ;
- (g) for prescribing the procedure of the Board in deciding any objection lodged against any order passed under section 4 determining the grade of any coal ;
- (h) for prescribing the form of certificate to be granted under section 6 and the procedure on application under that section ;
- (i) for prescribing the restrictions subject to which preference may be given under section 8 ;
- (j) for prescribing the fees for any inspection or analysis required for the purposes of this Act or payable under any of the provisions of this Act ; and
- (k) for prescribing the remuneration of members and regulating the expenditure of the Board.



# ACT NO. XXXII OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL  
ON THE 23RD SEPTEMBER, 1925.

*An Act to supplement the Oudh Courts Act, 1925.*

Whereas it is expedient to supplement the Oudh Courts Act, 1925,\* for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title and com-  
mencement. 1. (1) This Act may be called the Oudh Courts (Supplementary) Act, 1925.

(2) It shall come into force on the date directed by the Governor-General in Council under sub-section (3) of section 1 of the Oudh Courts Act, 1925.\*

Amendment of certain enactments. 2. The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

## THE SCHEDULE.

### ENACTMENTS AMENDED.

(See section 2.)

Year.	No.	Short title.	Amendment.
1866	XXVII	The Indian Trustees Act, 1866.	In the definition of High Court in section 2 after "cap. 104" the words "and also the Chief Court of Oudh" shall be inserted.
1866	XXVIII	The Trustees' and Mortgagees' Powers Act, 1866.	In the definition of High Court in section 1 after "c. 104" the words "and includes the Chief Court of Oudh" shall be inserted.
1869	IV	The Indian Divorce Act, 1869.	(1) In clause (1) of section 3 after the word "Rangoon" the words "in Oudh—the Chief Court of Oudh" shall be inserted. (2) In clause (2) of section 3 after the words "Regulation provinces" the words "and in Oudh" shall be inserted, and after the words "other than" the word "Oudh" shall be inserted.
1875	XVIII	The Indian Law Reports Act, 1875.	(1) In the preamble after the word and figures "chapter 104" the words "and by the Chief Court of Oudh" shall be inserted.

Year.	No.	Short title.	Amendment.
1879	XVIII	The Legal Practitioners Act, 1879.	(2) In section 3 after the words "High Courts" the words "or by the Chief Court of Oudh" shall be inserted.  In sub-section (1) of section 41 after the word "and" the words "except in the case of the Chief Court of Oudh" shall be inserted.
1890	IX ...	The Indian Railways Act, 1890.	In sub-section (3) of section 26 after the words "Chief Justice" the words "or in the case of the Chief Court of Oudh, the Chief Judge" shall be inserted.
1898	V ...	The Code of Criminal Procedure, 1898.	(1) In clause (j) of sub-section (1) of section 4 after the word "Rangoon" the words "the Chief Court of Oudh" shall be inserted, and the word "Oudh" after the word "Provinces" shall be omitted. (2) In section 266 after the word "includes" the words "the Chief Court of Oudh" shall be inserted, and the word "Oudh" after the word "Provinces" shall be omitted. (3) In sub-section (1) of section 364 after the word "Charter" the words "or the Chief Court of Oudh" shall be inserted. (4) In section 365 after the word "Charter" the words "and the Chief Court of Oudh" shall be inserted.
1899	II ...	The Indian Stamp Act, 1899.	For clause (b) of sub-section (1) of section 57 the following shall be substituted, namely:—  (b) (i) if it arises in Agra or in Ajmer to the High Court of Judicature at Allahabad; (ii) if it arises in Oudh—to the Chief Court of Oudh;"
1908	V ...	The Code of Civil Procedure, 1908.	(1) In section 122 after the figures "1915" the words "and the Chief Court of Oudh" shall be inserted. (2) In sub-section (1) of section 123 after the words "High Courts" the words "and and of the Chief Court" shall be inserted.

*An Act to amend the Criminal Tribes Act, 1924.*

(3) Where any such registered member changes his place of residence to a district other than that in which he has been registered (whether in the same province or not), the relevant entry in the register shall be transferred to the Superintendent of Police of that district."

*An Act to amend the Cotton Transport Act, 1923.*

2. In clause g) of section 2 of the Cotton Transport Act, 1923† (hereinafter referred to as the said Act), after the word "prohibited" the words "wholly or partly" shall be inserted.

† III of 1923.

3. In section 3 of the said Act, in sub-section (1) after the words "into that area" the words "by rail, road, river and sea, or by any one or more of such routes", and in sub-section (2) after the words "import of which" and the words "for the import" the words "by rail" shall be inserted.

4. In section 4 of the said Act, in sub-section (1) after the words "import of the cotton" and in sub-section (3) after the words "the import" the words "by rail" shall be inserted.

5. In sub-section (1) of section 5 of the said Act, after the words "import of which" and the words "import of the cotton" the words "by rail" shall be inserted.

6. In clause (a) of sub-section (1) of section 7 of the said Act, after the word "prohibited" the words "wholly or partly" shall be inserted.

## ACT NO. XXXV OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE  
23RD SEPTEMBER, 1925.

*An Act to supplement certain provisions of the Madras Children Act, 1920, of the Bengal Children Act, 1922, and of the Bombay Children Act, 1924.*

Whereas it is expedient to supplement by legislation in the Indian Legislature certain provisions of the Madras Children Act, 1920, of the Bengal Children Act, 1922, and of the Bombay Children Act, 1924, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Madras, Bengal and Bombay Children (Supplementary) Act, 1925.

2. The Madras Children Act, 1920, the Bengal Children Act, 1922, and the Bombay Children Act, 1924, shall, so far as regards the appellate and revisional jurisdiction conferred by the said Acts on the High Courts of Judicature at Madras, at Fort William in Bengal and at Bombay, respectively, be as valid as if the said Acts had been passed by the Indian Legislature.

**ACT NO. XXXVI OF 1925.**

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON THE  
23RD SEPTEMBER, 1925.

*An Act further to amend the Indian Ports Act, 1908.*

Whereas it is expedient further to amend the Indian Ports Act, 1908, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian Ports (Amendment) Act, 1925.

Amendment of section 31, Act XV of 1908. 2. (1) To sub-section (1) of section 31 of the Indian Ports Act, 1908, the following proviso shall be added, namely :—

“ Provided that the Governor-General in Council may, by notification in the Gazette of India, direct that in any port specified in such notification the provisions of this sub-section shall not apply to sailing vessels of any measurement not exceeding a measurement so specified.”

(2) Sub-sections (4) and (5) of the said section are hereby repealed.

**ACT NO. XXXVII OF 1925.**

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON  
THE 23RD SEPTEMBER 1925.

*An Act to amend certain enactments and to repeal certain other enactments.*

Whereas it is expedient that certain amendments should be made in the enactments specified in the First Schedule ;

And whereas it is also expedient that certain enactments specified in the Second Schedule which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by express specific repeal, should be expressly and specifically repealed ;

It is hereby enacted as follows :—

Short title. 1. This Act may be called the Repealing and Amending Act, 1925.

Amendment of certain enactments. 2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Repeal of certain enactments. 3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to ;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

## THE FIRST SCHEDULE.

### AMENDMENTS.

(See section 2).

Year.	No	Short title.	Amendments.
1882	II	The Indian Trusts Act, 1882.	In section 20, clause (c) for the word "Central" the word "Provincial" shall be substituted.
1898	XIII	The Burma Laws Act, 1898.	In the First Schedule, in the entry relating to the Code of Criminal Procedure 1898 (V of 1898), in column 4, for the words "Upper Burma Criminal Justice Regulation, 1892" the words "Burma (Frontier Districts) Criminal Justice Regulation, 1925" shall be substituted.
1910	IX	The Indian Electricity Act, 1910.	In section 3, sub-section (2), clause (a), sub-clause (ii), for the words "Director of Military Works" the words "Engineer-in-Chief, Army Headquarters, India" shall be substituted.
1923	IV	The Indian Mines Act, 1923.	(1) In section 9, sub-section (2), for the words "in the manner provided by section 4 of the Indian Official Secrets Act, 1889" the words "with imprisonment for a term which may extend to one year, or with fine or with both" shall be substituted. (2) In section 13, for the words "owner, agent or manager" the words "owner or agent" shall be substituted.

Year.	No.	Short title.	Repeals.
1923	VIII	The Workman's Compensation Act, 1923.	(3) In section 30, clause (g), after the word "Act" the words "and of the regulations and rules" shall be inserted, and the words "the regulations, rules and" shall be omitted. In section 22, sub-section (2), clause (d), for the word "on" where it occurs for the second time the word "of" shall be substituted.
1923	XXIX	The Code of Civil Procedure (Amendment) Act, 1923.	In section 1, for the word and brackets "(Amendment)" the words and brackets "(Second Amendment)" shall be substituted.

## THE SECOND SCHEDULE.

## REPEALS.

(See section 3.)

Year.	No.	Short title.	Repeals.
1872	V ...	The High Courts Jurisdiction (Sindh) Act, 1872.	Section 4.
1898	V ...	The Code of Criminal Procedure, 1898.	(1) In column 1 of Schedule II, the figures "159". (2) In Schedule III, item (16) in Head I and items (15) and (16) in Head V.
1898	XIII ...	The Burma Laws Act, 1898.	In the Third Schedule the entry relating to the Upper Burma Criminal Justice Regulation, 1892.

## ACT NO XXXVIII OF 1925.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL  
ON THE 23RD SEPTEMBER 1925.

*An Act further to amend the Transfer of Property Act, 1882.*

Whereas it is expedient further to amend the Transfer of Property Act, 1882, for, the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Transfer of Property (Amendment) Act, 1925

2. In sub-section (1) of section 130 of the Transfer of Property Act, 1882, after the words "authorised agent and" the words and figures "notwithstanding anything contained in section 123" shall be inserted.

Amendment of section  
130, Act IV of 1882.

# ACT NO. XXXIX OF 1925.

## THE INDIAN SUCCESSION ACT.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL  
ON THE 30TH SEPTEMBER, 1925.

### CONTENTS.

#### PART I.

##### PRELIMINARY.

##### Clauses.

- 1 Short title.
- 2 Definitions.
- 3 Power of Local Government to exempt any race, sect or tribe in the territories administered by the Local Government from operation of Act.

#### PART II.

##### OF DOMICILE.

- 4 Application of Part.
- 5 Law regulating succession to deceased person's immoveable and moveable property, respectively
- 6 One domicile only affects succession to moveables.
- 7 Domicile of origin of person of legitimate birth.
- 8 Domicile of origin of illegitimate child.
- 9 Continuance of domicile of origin.
- 10 Acquisition of new domicile.
- 11 Special mode of acquiring domicile in British India.
- 12 Domicile not acquired by residence as representative of foreign Government, or as part of his family.
- 13 Continuance of new domicile.
- 14 Minor's domicile.
- 15 Domicile acquired by woman on marriage.

##### Clauses.

- 16 Wife's domicile during marriage.
- 17 Minor's acquisition of new domicile.
- 18 Lunatic's acquisition of new domicile.
- 19 Succession to moveable property in British India in absence of proof of domicile elsewhere.

#### PART III.

##### MARRIAGE.

- 20 Interests and powers not acquired nor lost by marriage.
- 21 Effect of marriage between person domiciled and one not domiciled in British India.
- 22 Settlement of minor's property in contemplation of marriage.

#### PART IV.

##### OF CONSANGUINITY.

- 23 Application of Part.
- 24 Kindred or consanguinity.
- 25 Lineal consanguinity.
- 26 Collateral consanguinity.
- 27 Persons held for purpose of succession to be similarly related to deceased.
- 28 Mode of computing of degrees of kindred.



## PART V.

## INTESTATE SUCCESSION.

## CHAPTER. I.

*Preliminary.*

## Clauses.

- 29 Application of Part.
- 30 As to what property deceased considered to have died intestate.

## CHAPTER II.

*Rules in cases Intestates other than Parsis.*

- 31 Chapter not to apply to Parsis.
- 32 Devolution of such property.
- 33 Where intestate has left widow and lineal descendants, or widow and kindred only, or widow and no kindred.
- 34 Where intestate has left no widow, and where he has left no kindred.
- 35 Rights of widower.

*Distribution where there are lineal descendants.*

- 36 Rules of distribution.
- 37 Where intestate has left child or children only.
- 38 Where intestate has left no child, but grandchild or grandchildren.
- 39 Where intestate has left only great-grand-children or remoter lineal descendants.
- 40 Where intestate leaves lineal descendants not all in same degree of kindred to him, and those through whom the more remote are descended are dead.

*Distribution where there are no lineal descendants.*

- 41 Rules of distribution where intestate has left no lineal descendants.

## Clauses.

- 42 Where intestate's father living.
- 43 Where intestate's father dead, but his mother, brothers and sisters living.
- 44 Where intestate's father dead and his mother, a brother or sister, and children of any deceased brother or sister living.
- 55 Where intestate's father dead and his mother and children of any deceased brother or sister living.
- 46 Where intestate's father dead, but his mother living and no brother, sister, nephew or niece.
- 47 Where intestate has left neither lineal descendant, nor father, nor mother.
- 48 Where intestate has left neither lineal descendant, nor parent, nor brother, nor sister.
- 49 Children's advancements not brought into hotchpot.

## CHAPTER III.

*Special Rules for Parsi Intestates.*

- 50 Division of property among widow and children of intestate.
- 51 Division of property among widower and children of intestate.
- 52 Division of property amongst the children of male intestate who leaves no widow.
- 53 Division of property amongst the children of female intestate who leaves no widower.
- 54 Division of pre-deceased child's share of intestate's property among the widow or widower and issue of such child.
- 55 Division of property when the intestate leaves a widow or widower but no lineal descendants.
- 56 Division of property when the intestate leaves neither widow nor widower, nor lineal descendants.

## PART VI.

## TESTAMENTARY SUCCESSION.

## CHAPTER I.

*Introductory.*

## Clauses.

- 57 Application of certain provisions of Part to a class of wills made by Hindus, etc.
- 58. General application of Part.

## CHAPTER II.

*Of Wills and Codicils.*

- 59 Person capable of making wills.
- 60 Testamentary guardian.
- 61 Will obtained by fraud, coercion or importunity.
- 62 Will may be revoked or altered.

## CHAPTER III.

*Of the Execution of unprivileged Wills.*

- 63 Execution of unprivileged wills.
- 64 Incorporation of papers by reference.

## CHAPTER IV.

*Of privileged Wills.*

- 65 Privileged wills.
- 66 Mode of making, and rules for executing, privileged wills.

## CHAPTER V.

*Of the Attestation, Revocation, Alteration and Revival of Wills.*

- 67 Effect of gift to attesting witness.
- 68 Witness not disqualified by interest or by being executor.
- 69 Revocation of will by testator's marriage.
- 70 Revocation of unprivileged will or codicil.
- 71 Effect of obliteration, interlineation or alteration in unprivileged will.
- 72 Revocation of privileged will or codicil.
- 73 Revival of unprivileged will.

## CHAPTER VI.

*Of the Construction of Wills.*

## Clauses.

- 74 Wording of will.
- 75 Inquiries to determine questions as to object or subject of will.
- 76 Misnomer or misdescription of object.
- 77 When words may be supplied.
- 78 Rejection of erroneous particulars in description of subject.
- 79 When part of description may not be rejected as erroneous.
- 80 Extrinsic evidence admissible in cases of patent ambiguity.
- 81 Extrinsic evidence inadmissible in case of patent ambiguity or deficiency.
- 82 Meaning of clause to be collected from entire will.
- 83 When words may be understood in restricted sense, and when in sense wider than usual.
- 84 Which of two possible constructions preferred.
- 85 No part rejected, if it can be reasonably construed.
- 86 Interpretation of words repeated in different parts of will.
- 87 Testator's intention to be effectuated as far as possible.
- 88 The last of two inconsistent clauses prevails.
- 89 Will or bequest void for uncertainty.
- 90 Words describing subject refer to property answering description at testator's death.
- 91 Power of appointment executed by general bequest.
- 92 Implied gift to objects of power in default of appointment.
- 93 Bequest to "heirs", etc., of particular person without qualifying terms.
- 94 Bequest to "representatives," etc., of particular person.
- 95 Bequest without words of limitation.
- 96 Bequest in alternative.
- 97 Effect of words describing a class added to bequest to person.
- 98 Bequest to class of persons under general description only.
- 99 Construction of terms.

## Clauses.

- 100 Words expressing relationship denote only legitimate relatives or failing such relatives reputed legitimate.
- 101 Rules of construction where will purports to make two bequests to same person.
- 102 Constitution of residuary legatee.
- 103 Property to which residuary legatee entitled.
- 104 Time of vesting legacy in general terms.
- 105 In what case legacy lapses
- 106 Legacy does not lapse if one of two joint legatees die before testator.
- 107 Effect of words showing testator's intention to give distinct shares.
- 108 When lapsed share goes as undisposed of.
- 109 When bequest to testator's child or lineal descendant does not lapse on his death in testator's lifetime.
- 110 Bequest to A for benefit of B does not lapse by A's death.
- 111 Survivorship in case of bequest to described class.

## CHAPTER VII.

*Of void Bequests.*

- 112 Bequest to person by particular description, who is not in existence at testator's death.
- 113 Bequest to person not in existence at testator's death, subject to prior bequest.
- 114 Rule against perpetuity.
- 115 Bequest to a class some of whom may come under rules in sections 113 and 114
- 116 Bequest to take effect on failure of bequest void under section 113, 114 or 115.
- 117 Effect of direction for accumulation.
- 118 Bequest to religious or charitable uses.

## CHAPTER VIII.

*Of the vesting of Legacies.*

- 119 Date of vesting of legacy when payment or possession postponed.

## Clauses.

- 120 Date of vesting when legacy contingent upon specified uncertain event.
- 121 Vesting of interest in bequest to such members of a class as shall have attained particular age.

## CHAPTER IX.

*Of onerous Bequests.*

- 122 Onerous bequests.
- 123 One of two separate and independent bequests to same person may be accepted, and o her refused.

## CHAPTER X.

*Of Contingent Bequests.*

- 124 Bequest contingent upon specified uncertain event, no time being mentioned for its occurrence.
- 125 Bequest to such of certain persons as shall be surviving at some period not specified.

## CHAPTER XI.

*Of Conditional Bequests*

- 126 Bequest upon impossible condition.
- 127 Bequest upon illegal or immoral condition
- 128 Fulfilment of condition precedent to vesting of legacy.
- 129 Bequest to A and on failure of prior bequest to B.
- 130 When second bequest not to take effect on failure of first.
- 131 Bequest over, conditional upon happening or not happening of specified uncertain event.
- 132 Condition must be strictly fulfilled.
- 133 Original bequest not affected by invalidity of second.
- 134 Bequest conditioned that it shall cease to have effect in case a specified uncertain event shall happen or not happen.
- 135 Such condition must not be invalid under section 120.

## Clauses.

- 136 Result of legatee rendering impossible or indefinitely postponing act for which no time specified, and on non-performance of which subject-matter to go over.
- 137 Performance of condition, precedent or subsequent, within specified time. Further time in case of fraud.

## CHAPTER XII.

*Of Bequest with Directions as to Application of enjoyment*

- 138 Direction that fund be employed in particular manner following absolute bequest of same to or for benefit of any person.
- 139 Direction that mode of enjoyment of absolute bequest is to be restricted, to secure specified benefit for legatee.
- 140 Bequest of fund for certain purposes, some of which cannot be fulfilled.

## CHAPTER XIII.

*Of Bequest to an Executor.*

- 141 Legatee named as executor cannot take unless he shows intention to act as executor.

## CHAPTER XIV.

*Of Specific Legacies.*

- 142 Specific legacy defined.
- 143 Bequest of certain sum where stocks, etc., in which invested are described.
- 144 Bequest of stock where testator had, at date of will, equal or greater amount of stock of same kind.
- 145 Bequest of money where not payable until part of testator's property disposed of in certain way
- 146 When enumerated articles not deemed specifically bequeathed.
- 147 Retention, in form, of specific bequest to several persons in succession.

## Clauses.

- 148 Sale and investment of proceeds of property bequeathed to two or more persons in succession.
- 149 Where deficiency of assets to pay legacies, specific legacy not to abate with general legacies.

## CHAPTER XV.

*Of Demonstrative Legacies.*

- 150 Demonstrative legacy defined.
- 151 Order of payment when legacy directed to be paid out of fund the subject of specific legacy.

## CHAPTER XVI.

*Of Ademption of Legacies.*

- 152 Ademption explained.
- 153 Non-ademption of demonstrative legacy.
- 154 Ademption of specific bequest of right to receive something from third party.
- 155 Ademption *pro tanto* by testator's receipt of part of entire thing specifically bequeathed.
- 156 Ademption *pro tanto* by testator's receipt of portion of entire fund of which portion has been specifically bequeathed.
- 157 Order of payment where portion of fund specifically bequeathed to one legatee, and legacy charged on same fund to another, and testator having received portion of that fund, remainder insufficient to pay both legacies.
- 158 Ademption where stock, specifically bequeathed, does not exist at testator's death.
- 159 Ademption *pro tanto* where stock, specifically bequeathed, exists in part only at testator's death.
- 160 Non-ademption of specific bequest of goods described as connected with certain place, by reason of removal.
- 161 When removal of thing bequeathed does not constitute ademption.

## Clauses.

- 162 When thing bequeathed is a valuable to be received by testator from third person ; and testator himself, or his representative, receives it.
- 163 Change by operation of law of subject of specific bequest between date of will and testator's death.
- 164 Change of subject without testator's knowledge.
- 165 Stock specifically bequeathed lent to third party on condition that it be replaced.
- 166 Stock specifically bequeathed sold but replaced, and belonging to testator at his death.

## CHAPTER XVII.

*Of the payment of liabilities in respect of the subject of a bequest.*

- 167 Non-liability of executor to exonerate specific legatees.
- 168 Completion of testator's title to things bequeathed to be at cost of his estate.
- 169 Exoneration of legatee's immovable property for which land revenue or rent payable periodically.
- 170 Exoneration of specific legatee's stock in joint stock company.

## CHAPTER XVIII.

*Of Bequests of things described in General Terms.*

- 171 Bequest of thing described in general terms.

## CHAPTER XIX.

*Of Bequests of the Interest or Produce of a Fund.*

- 172 Bequest of interest or produce of fund.

## CHAPTER XX.

*Of Bequests of Annuities.*

## Clauses.

- 173 Annuity created by will payable for life only unless contrary intention appears by will.
- 174 Period of vesting where will directs that annuity be provided out of proceeds of property, or out of property generally or where money bequeathed to be invested in purchase of annuity.
- 175 Abatement of annuity.
- 176 Where gift of annuity and residuary gift, whole annuity to be first satisfied.

## CHAPTER XXI.

*Of Legacies to Creditors and Portioners.*

- 177 Creditor *prima facie* entitled to legacy as well as debt.
- 178 Child *prima facie* entitled to legacy as well as portion.
- 179 No ademption by subsequent provision for legatee.

## CHAPTER XXII.

*Of Election.*

- 180 Circumstances in which election takes place.
- 181 Devolution of interest relinquished by owner.
- 182 Testator's belief as to his ownership immaterial.
- 183 Bequest for man's benefit how regarded for purpose of election.
- 184 Person deriving benefit indirectly not put to election.
- 185 Person taking in individual capacity under will may in other character elect to take in opposition.
- 186 Exception to provisions of last six sections.
- 187 When acceptance of benefit given by will constitutes election to take under will.
- 188 Circumstances in which knowledge or waiver is presumed or inferred.

## Clauses.

- 189 When testator's representatives may call upon legatees to elect.  
 190 Postponement of election in case of disability.

## CHAPTER XXIII.

*Of Gifts in Contemplation of Death.*

- 191 Property transferable by gift made in contemplation of death.

## PART VII.

## PROTECTION OF PROPERTY OF DECEASED.

- 192 Person claiming right by succession to property of deceased may apply for relief against wrongful possession.  
 193 Inquiry made by Judge.  
 194 Procedure.  
 195 Appointment of curator pending determination of proceeding.  
 196 Powers conferable on curator.  
 197 Prohibition of exercise of certain powers by curators. Payment of debts, etc., to curator.  
 198 Curator to give security and may receive remuneration.  
 199 Report from Collector where estate includes revenue paying land.  
 200 Institution and defence of suits.  
 201 Allowances to apparent owners pending custody by curator.  
 202 Accounts to be filed by curator.  
 203 Inspection of accounts and right of interested party to keep duplicate.  
 204 Bar to appointment of second curator for same property.  
 205 Limitation of time for application for curator.  
 206 Bar to enforcement of Part against public settlement or legal directions by deceased  
 207 Court of Wards to be made curator in case of minors having property subject to its jurisdiction  
 208 Saving of right to bring suit.  
 209 Effect of decision of summary proceeding.  
 210 Appointment of public curators.

## PART VIII.

## REPRESENTATIVE TITLE TO PROPERTY OF DECEASED ON SUCCESSION.

## Clauses.

- 211 Character and property of executor or administrator as such.  
 212 Right to intestate's property.  
 213 Right as executor or legatee when established.  
 214 Priority of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.  
 215 Effect on certificate of subsequent probate or letters of administration  
 216 Grantee of probate or administration alone to sue, etc., until same revoked.

## PART IX.

## PROBATE, LETTERS OF ADMINISTRATION AND ADMINISTRATION OF ASSETS OF DECEASED.

- 217 Application of Part.

## CHAPTER I.

*Of Grant of Probate and Letters of Administration.*

- 218 To whom administration may be granted, where deceased is a Hindu, Muhammadan, Buddhist, Sikh, Jaina or exempted person.  
 219 Where deceased is not a Hindu, Muhammadan, Buddhist, Sikh, Jaina or exempted person  
 220 Effect of letters of administration.  
 221 Acts not validated by administration.  
 222 Probate only to appointed executor.  
 223 Persons to whom probate cannot be granted.  
 224 Grant of probate to several executors simultaneously or at different times.  
 225 Separate probate of codicil discovered after grant of probate.  
 226 Accrual of representation to surviving executor.

## Clauses.

- 227 Effect of probate.
- 228 Administration with copy annexed of authenticated copy of will proved abroad.
- 229 Grant of administration where executor has not renounced.
- 230 Form and effect of renunciation of executorship.
- 231 Procedure where executor renounces or fails to accept within time limited.
- 232 Grant of administration to universal residuary legatees.
- 233 Right to administration of representative of deceased residuary legatees.
- 234 Grant of administration where no executor, nor residuary legatee, nor representative of such legatee.
- 235 Citation before grant of administration to legatee other than universal or residuary.
- 236 To whom administration may not be granted.

## CHAPTER II.

*Of limited Grants.**Grants limited in duration.*

- 237. Probate of copy or draft of lost will.
- 238 Probate of contents of lost or destroyed will.
- 239 Probate of copy where original exists.
- 240 Administration until will produced.

*Grants for the use and benefit of others having right.*

- 241 Administration, with will annexed to attorney of absent executor.
- 242 Administration with will annexed to attorney of absent person who, if present, would be entitled to administer.
- 243 Administration to attorney of absent person entitled to administer in case of intestacy.
- 244 Administration during minority of sole executor or residuary legatees.
- 245 Administration during minority of several executors or residuary legatees.

## Clauses.

- 246 Administration for use and benefit of lunatic or minor.
- 247 Administration *pendente lite*.
- Grants for special purposes.*
- 248 Probate limited to purpose specified in will.
- 249 Administration, with will annexed, limited to particular purpose.
- 250 Administration limited to property in which person has beneficial interest.
- 251 Administration limited to suit.
- 252 Administration limited to purpose of becoming party to suit to be brought against administrator.
- 253 Administration limited to collection and preservation of deceased's property.
- 254 Appointment, as administrator of person other than one who, in ordinary circumstances, would be entitled to administration.

*Grants with exception.*

- 255 Probate or administration, with will annexed, subject to exception.
- 256 Administration with exception.

*Grants of the rest.*

- 257 Probate or administration of rest.
- Grant of effects unadministered.*
- 258 Grant of effects unadministered.
- 259 Rules as to grants of effects unadministered.
- 260 Administration when limited grant expired and still some part of estate unadministered.

## CHAPTER III.

*Alteration and Revocation of Grants.*

- 261 What errors may be rectified by Court.
- 262 Procedure where codicil discovered after grant of administration with will annexed.
- 263 Revocation or annulment for just cause.

## CHAPTER IV.

*Of the practice in granting and revoking Probates and Letters of Administration.*

- 264 Jurisdiction of District Judge in granting and revoking probates, etc,

## Clauses.

- 265. Power to appoint Delegate of District Judge to deal with non-contentious cases.
- 266. District Judge's powers as to grant of probate and administration.
- 267 District Judge may order person to produce testamentary papers.
- 268 Proceedings of District Judge's Court in relation to probate and administration.
- 269 When and how District Judge to interfere for protection of protection of property.
- 270 When probate or administration may be granted by District Judge.
- 271 Disposal of application made to Judge of district in which deceased had no fixed abode.
- 272 Probate and letters of administration may be granted by Delegate.
- 273 Conclusiveness of probate or letters of administration.
- 274 Transmission to High Courts of certificate of grants under proviso to section 273.
- 275 Conclusiveness of application for probate or administration if properly made and verified.
- 276 Petition for probate.
- 277 In what cases translation of will to be annexed to petition. Verification of translation by person other than Court translator.
- 278 Petition for letters of administration.
- 279 Addition to statement in petition, etc., for probate or letters of administration in certain cases.
- 280 Petition for probate, etc., to be signed and verified.
- 281 Verification of petition for probate, by one witness to will.
- 282 Punishment for false averment in petition or declaration.
- 283 Powers of District Judge.
- 284 Caveats against grant of probate or administration. Form of caveat.
- 285 After entry of caveat no proceeding taken on petition until after notice to caveator.
- 286 District Delegate when not to grant probate or administration.

## Clauses.

- 287 Power to transmit statement to District Judge in doubtful cases where no contention.
- 288 Procedure where there is contention, or District Delegate thinks probate or letters of administration should be refused in his Court.
- 289 Grant of probate to be under seal of Court.
- 290 Grant of letters of administration to be under seal of Court.
- 291 Administration-bond.
- 292 Assignment of administration-bond.
- 293 Time for grant of probate and administration.
- 294 Filing of original wills of which probate or administration with will annexed granted.
- 295 Procedure in contentious cases.
- 296 Surrender of revoked probate or letters of administration.
- 297 Payment to executor or administrator before probate or administration revoked.
- 298 Power to refuse letters of administration.
- 299 Appeals from orders of District Judge.
- 300 Concurrent jurisdiction of High Court.
- 301 Removal of executor or administrator and provision for successor.
- 302 Directions to executor or administrator.

## CHAPTER V.

*Of executors of their own wrong.*

- 303 Executor of his own wrong.
- 304 Liability of executor of his own wrong.

## CHAPTER VI.

*Of the powers of an Executor or Administrator.*

- 305 In respect of causes of action surviving deceased, and rents due at death.
- 306 Demands and rights of action of or against deceased survive to and against executor or administrator.



## Clauses.

- 307 Power of executor or administrator to dispose of property.
- 308 General powers of administration.
- 309 Commission or agency charges.
- 310 Purchase by executor or administrator of deceased's property,
- 311 Powers of several executors or administrators exercisable by one.
- 312. Survival of powers on death of one of several executors or administrators.
- 313 Powers of administrator of effects unadministered.
- 314 Powers of administrator during minority.
- 315 Powers of married executrix or administratrix.

## CHAPTER VII.

*Of the Duties of an Executor or Administrator*

- 316 As to deceased's funeral.
- 317 Inventory and account.
- 318 Inventory to include property in any part of British India in certain cases.
- 319 As to property of, and debt owing to, deceased.
- 320 Expenses to be paid before all debts.
- 321 Expenses to be paid next after such expenses.
- 322 Wages for certain services to be next paid, and then other debts.
- 323 Save as aforesaid, all debts to be paid equally and rateably.
- 324 Application of moveable property to payment of debts where domicile not in British India.
- 325 Debts to be paid before legacies.
- 326 Executor or administrator not bound to pay legacies without indemnity.
- 327 Abatement of general legacies.
- 328 Non-abatement of specific legacy when assets sufficient to pay debts.
- 329 Right under demonstrative legacy when assets sufficient to pay debts and necessary expenses.
- 330 Rateable abatement of specific legacies.
- 331 Legacies treated as general for purpose of abatement.

## CHAPTER VIII.

*Of assent to a legacy by Executor or Administrator.*

## Clauses.

- 332 Assent necessary to complete legatee's title.
- 333 Effect of executor's assent to specific legacy.
- 334 Conditional assent.
- 335 Assent of executor to his own legacy.
- 336 Effect of executor's assent.
- 337 Executor when to deliver legacies.

## CHAPTER IX.

*Of the Payment and Apportionment of Annuities.*

- 338 Commencement of annuity when no time fixed by will.
- 339 When annuity, to be paid quarterly or monthly, first falls due.
- 340 Dates of successive payments when first payment directed to be made within given time or on day certain : death of annuitant before date of payment.

## CHAPTER X.

*Of the Investment of Funds to provide for Legacies.*

- 341 Investment of sum bequeathed where legacy, not specific, given for life.
- 342 Investment of general legacy to be paid at future time : disposal of intermediate interest.
- 343 Procedure when no fund charged with, or appropriated to annuity.
- 344 Transfer to residuary legatee of contingent bequest.
- 345 Investment of residue bequeathed for life, without direction to invest in particular securities.
- 346 Investment of residue bequeathed for life, with direction to invest in specified securities.
- 347 Time and manner of conversion and investment.
- 348 Procedure when minor entitled to immediate payment or possession of bequest, and no direction to pay to person on his behalf.

## CHAPTER XI.

*Of the Produce and Interest of Legacies.*

## Clauses.

- 349 Legatee's title to produce of specific legacy.
- 350 Residuary legatee's title to produce of residuary fund.
- 351 Interest when no time fixed for payment of general legacy.
- 352 Interest when time fixed.
- 353 Rate of interest.
- 354 No interest on arrears of annuity within first year after testator's death.
- 355 Interest on sum to be invested to produce annuity.

## CHAPTER XII.

*Of the Refunding of Legacies.*

- 356 Refund of legacy paid under Court's orders.
- 357 No refund if paid voluntarily.
- 358 Refund when legacy has become due on performance of condition within further time allowed under section 137.
- 359 When each legatee compellable to refund in proportion.
- 360 Distribution of assets.
- 361 Creditor may call upon legatee to refund.
- 362 When legatee, not satisfied or compelled to refund under section 361, cannot oblige one paid in full to refund.
- 363 When unsatisfied legatee must first proceed against executor, if solvent.
- 364 Limit to refunding of one legatee to another.
- 365 Refunding to be without interest.
- 366 Residue after usual payments to be paid to residuary legatee.
- 367 Transfer of assets from British India to executor or administrator in country of domicile for distribution.

## CHAPTER XIII.

*Of the Liability of an Executor or Administrator for Devastation.*

- 368 Liability of executor or administrator for devastation.

## Clauses.

- 369 Liability of executor or administrator for neglect to get in any part of property.

## PART X.

## SUCCESSION CERTIFICATES.

- 370 Restriction on grant of certificates under this Part.
- 371 Court having jurisdiction to grant certificate.
- 372 Application for certificate.
- 373 Procedure on application.
- 374 Contents of certificate.
- 375 Requisition of security from grantee of certificate.
- 376 Extension of certificate.
- 377 Forms of certificate and extended certificate.
- 378 Amendment of certificate in respect of powers as to securities.
- 379 Mode of collecting Court-fees on certificates.
- 380 Local extent of certificate.
- 381 Effect of certificate.
- 382 Effect of certificate granted or extended by British representative in Foreign State.
- 383 Revocation of certificate.
- 384 Appeal.
- 385 Effect on certificate of previous certificate, probate or letters of administration.
- 386 Validation of certain payments made in good faith to holder of invalid certificate.
- 387 Effect of decisions under this Act, and liability of holder of certificate thereunder.
- 388 Investiture of inferior Courts with jurisdiction of District Court for purposes of this Act.
- 389 Surrender of superseded and invalid certificates.
- 390 Provisions with respect to certificates under Bombay Regulation VIII of 1827.

## PART XI.

## MISCELLANEOUS.

- 391 Saving.
- 392 Repeals.

## SCHEDULES.

SCHEDULE I.—Table of Consanguinity.	and Codicils described in section 57.
SCHEDULE II.—	
Part I.—Order of next-of-kin in case of Parsi intestates referred to in section 55 (b).	SCHEDULE IV.—Form of Certificate.
Part II.—Order of next-of-kin in case of Parsi intestates referred to in section 56.	SCHEDULE V.—Form of Caveat.
SCHEDULE III.—Provisions of Part VI applicable to certain Wills	SCHEDULE VI.—Form of Probate.
	SCHEDULE VII.—Form of Letters of Administration.
	SCHEDULE VIII.—Forms of Certificate and Extended Certificate.
	SCHEDULE IX.—Enactments Repealed.

*An Act to consolidate the law applicable to intestate and testamentary succession in British India*

WHEREAS it is expedient to consolidate the law applicable to intestate and testamentary succession in British India ; It is hereby enacted as follows :—

## PART I.

## PRELIMINARY.

Short title.

1. This Act may be called the Indian Succession Act, 1925.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) “administrator” means a person appointed by competent authority to administer the estate of a deceased person when there is no executor ;
- (b) “codicil” means an instrument made in relation to a will, and explaining, altering or adding to its dispositions, and shall be deemed to form part of the will ;
- (c) “executor” means a person to whom the execution of the last will of a deceased person is, by the testator’s appointment, confided ;
- (d) “Indian Christian” means a native of India who is, or in good faith claims to be, of unmixed Asiatic descent and who professes any form of the Christian religion ;
- (e) “minor” means any person subject to the Indian Majority Act, 1875,\* who has not attained his majority within the meaning of that Act, and any other person who has not completed the age of eighteen years ; and “minority” means the status of any such person ;

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\* IX of 1875.

- (f) "probate" means the copy of a will certified under the seal of a Court of competent jurisdiction with a grant of administration to the estate of the testator ;
- (g) "province" includes any division of British India having a Court of the last resort ; and
- (h) "will" means the legal declaration of the intention of a testator with respect to his property which he desires to be carried into effect after his death.

3. (1) The Local Government may, by notification in the local official Gazette, either retrospectively from the sixteenth day of March, 1865, or prospectively, exempt from the operation of any of the following provisions of this Act, namely, sections 5 to 49, 58 to 191, 212, 213 and 215 to 369, the members of any race, sect or tribe in the province, or of any part of such race, sect or tribe, to whom the Local Government considers it impossible or inexpedient to apply such provisions or any of them mentioned in the order.

(2) The Local Government may, by a like notification, revoke any such order, but no so that the revocation shall have retrospective effect.

(3) Persons exempted under this section or exempted from the operation of any of the provisions of the Indian Succession Act, 1865,\* under section 332 of that Act are in this Act referred to as "exempted persons".

## PART II.

### OF DOMICILE.

Application of Part. 4. This Part shall not apply if the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina.

Law regulating succession to deceased person's immovable and moveable property respectively. 5. (1) Succession to the immoveable property in British India of a person deceased shall be regulated by the law of British India, wherever such person may have had his domicile at the time of his death.

(2) Succession to the moveable property of a person deceased is regulated by the law of the country in which such person had his domicile at the time of his death

### *Illustrations.*

(i) A, having his domicile in British India, dies in France, leaving moveable property in France, moveable property in England, and property, both moveable and immoveable, in British India. The succession to the whole is regulated by the law of British India.

\* Act X of 1865.

(ii) A, an Englishman, having his domicile in France, dies in British India and leaves property, both moveable and immoveable, in British India. The succession to the moveable property is regulated by the rules which govern, in France, the succession to the moveable property of an Englishman dying domiciled in France, and the succession to the immoveable property is regulated by the law of British India.

One domicile only affects succession to moveables.

6. A person can have only one domicile for the purpose of the succession to his moveable property.

7. The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled ; or, if he is a posthumous child, in the country in which his father was domiciled at the time of the father's death.

Domicile of origin of person of legitimate birth.

#### *Illustration.*

At the time of the birth of A, his father was domiciled in England. A's domicile of origin is in England, whatever may be the country in which he was born.

Domicile of origin of illegitimate child.

8. The domicile of origin of an illegitimate child is in the country in which, at the time of his birth, his mother was domiciled.

Continuance of domicile of origin.

9. The domicile of origin prevails until a new domicile has been acquired.

Acquisition of new domicile.

10. A man acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.

*Explanation.*—A man is not to be deemed to have taken up his fixed habitation in British India merely by reason of his residing there in His Majesty's civil or military service, or in the exercise of any profession or calling.

#### *Illustrations.*

(i) A, whose domicile of origin is in England, proceeds to British India, where he settles as a barrister or a merchant, intending to reside there during the remainder of his life. His domicile is now in British India.

(ii) A, whose domicile is in England, goes to Austria, and enters the Austrian service, intending to remain in that service. A has acquired a domicile in Austria.

(iii) A, whose domicile of origin is in France, comes to reside in British India under an engagement with the Government of India for a certain number of years. It is his intention to return to France at the end of that period. He does not acquire a domicile in British India.

(iv) A, whose domicile is in England, goes to reside in British India for the purpose of winding up the affairs of a partnership which has been dissolved, and with the intention of returning to England as soon as that purpose is accomplished. He does not by such residence acquire a domicile in British India, however long the residence may last.

(v) A, having gone to reside in British India in the circumstances mentioned in the last preceding illustration, afterwards alters his intention, and takes up his fixed habitation in British India. A has acquired a domicile in British India.

(vi) A, whose domicile is in the French Settlement of Chandernagore, is compelled by political events to take refuge in Calcutta, and resides in Calcutta for many years in the hope of such political changes as may enable him to return with safety to Chandernagore. He does not by such residence acquire a domicile in British India.

(vii) A, having come to Calcutta in the circumstances stated in the last preceding illustration, continues to reside there after such political changes have occurred as would enable him to return with safety to Chandernagore, and he intends that his residence in Calcutta shall be permanent. A has acquired a domicile in British India.

11. Any person may acquire a domicile in British India by making and depositing in some office in British India, appointed in this behalf by the Local Government, a declaration in writing under his hand of his desire to acquire such domicile; provided that he has been resident in British India for one year immediately preceding the time of his making such declaration.

Domicile not acquired by residence as representative of foreign Government, or as part of his family.

12. A person who is appointed by the Government of one country to be its ambassador, consul or other representative in another country does not acquire a domicile in the latter country by reason only of residing there in pursuance of his appointment; nor does any other person acquire such domicile by reason only of residing with such first-mentioned person as part of his family or as a servant.

Continuance of new domicile.

13. A new domicile continues until the former domicile has been resumed or another has been acquired.

14. The domicile of a minor follows the domicile of the parent from whom he derived his domicile of origin.

*Exception.*—The domicile of a minor does not change with that of his parent, if the minor is married or holds any office or employment in the service of His Majesty, or has set up, with the consent of the parent, in any distinct business.

Domicile acquired by woman on marriage.

15. By marriage a woman acquires the domicile of her husband, if she had not the same domicile before.

Wife's domicile during marriage.

16. A wife's domicile during her marriage follows the domicile of her husband.

*Exception.*—The wife's domicile no longer follows that of her husband if they are separated by the sentence of a competent Court, or if the husband is undergoing a sentence of transportation.

Minor's acquisition of new domicile. 17. Save as hereinbefore otherwise provided in this Part, a person cannot, during minority, acquire a new domicile.

18. An insane person cannot acquire a new domicile in any other way than by his domicile following the domicile of another person.  
Lunatic's acquisition of new domicile.

Succession to moveable property in British India in absence of proof of domicile elsewhere. 19. If a person dies leaving moveable property in British India, in the absence of proof of any domicile elsewhere succession to the property is regulated by the law of British India.

### PART III.

#### MARRIAGE

20. (1) No person shall, by marriage, acquire any interest in the property of the person whom he or she marries or become incapable of doing any act in respect of his or her own property which he or she could have done if unmarried.  
Interests and powers not acquired nor lost by marriage.

(2) This section—

(a) shall not apply to any marriage contracted before the first day of January, 1866 ;

(b) shall not apply, and shall be deemed never to have applied, to any marriage one or both of the parties to which professed at the time of the marriage the Hindu, Muhammadan, Buddhist, Sikh or Jaina religion.

21. If a person whose domicile is not in British India marries in British India a person whose domicile is in British India, neither party acquires by the marriage any rights in respect of any property of the other party not comprised in a settlement made previous to the marriage, which he or she would not acquire thereby if both were domiciled in British India at the time of the marriage.  
Effect of Marriage between person domiciled and one not domiciled in British India.

22. (1) The property of a minor may be settled in contemplation of marriage, provided the settlement is made by the minor with the approbation of the minor's father, or, if the father is dead or absent from British India, with the approbation of the High Court.  
Settlement of minor's property in contemplation of marriage.

(2) Nothing in this section or in section 21 shall apply to any will made or intestacy occurring before the first day of January, 1866, or to intestate or testamentary succession to the property of any Hindu, Muhammadan, Buddhist, Sikh or Jaina.

## PART IV.

## OF CONSANGUINITY.

23. Nothing in this Part shall apply to any will made or intestacy occurring before the first day of January, 1866, or to intestate or testamentary succession to the property of any Hindu, Muhammadan, Buddhist, Sikh, Jaina or Parsi.

24. Kindred or consanguinity is the connection or relation of persons descended from the same stock or common ancestor.

25. (1) Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grandfather and great-grandfather, and so upwards in the direct ascending line ; or between a man and his son, grandson, great-grandson and so downwards in the direct descending line.

(2) Every generation constitutes a degree, either ascending or descending

(3) A person's father is related to him in the first degree, and so likewise is his son ; his grandfather and grandson in the second degree ; his great-grandfather and great-grandson in the third degree, and so on.

26. (1) Collateral consanguinity is that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other.

(2) For the purpose of ascertaining in what degree of kindred any collateral relative stands to a person deceased, it is necessary to reckon upwards from the person deceased to the common stock and then downwards to the collateral relative, a degree being allowed for each person, both ascending and descending.

Persons held for purpose of succession to be similarly related to deceased.

27. For the purpose of succession, there is no distinction—

- (a) between those who are related to a person deceased through his father, and those who are related to him through his mother ;  
or
- (b) between those who are related to a person deceased by the full blood, and those who are related to him by the half blood ;  
or
- (c) between those who were actually born in the lifetime of a person deceased and those who at the date of his death were only conceived in the womb, but who have been subsequently born alive.



Mode of computing of degrees of kindred. 28. Degrees of kindred are computed in the manner set forth in the table of kindred set out in Schedule I.

*Illustrations.*

(i) The person whose relatives are to be reckoned, and his cousin-german, or first cousin, are, as shown in the table, related in the fourth degree; there being one degree of ascent to the father, and another to the common ancestor, the grand-father: and from him one of descent to the uncle, and another to the cousin-german, making in all four degrees.

(ii) A grandson of the brother and a son of the uncle, i.e., a great-nephew and a cousin-german, are in equal degree being each four degrees removed.

(iii) A grandson of a cousin-german is in the same degree as the grandson of a great-uncle, for they are both in the sixth degree of kindred.

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PART V.

INTESTATE SUCCESSION.

CHAPTER I.

*Preliminary.*

Application of part. 29. (1) This Part shall not apply to any intstacy occurring before the first day of January, 1866, or to the property of any Hindu, Muhammadan, Buddhist, Sikh or Jaina.

(2) Save as provided in sub section (1) or by any other law for the time being in force, the provisions of this Part shall constitute the law of British India in all cases of intestacy.

As to what property deceased considered to have died intestate. 30. A person is deemed to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

*Illustrations.*

(i) A has left no will. He has died intestate in respect of the whole of his property.

(ii) A has left a will, whereby he has appointed B his executor; but the will contains no other provisions. A has died intestate in respect of the distribution of his property.

(iii) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.

(iv) A has bequeathed 1,000 rupees to B and 1,000 rupees to the eldest son of C, and has made no other bequest; and has died leaving the sum of 2,000 rupees and no other property. C died before A without having ever had a son. A has died intestate in respect of the distribution of 1,000 rupees.

## CHAPTER II.

## RULES IN CASES OF INTESTATES OTHER THAN PARSIS.

Chapter not to apply to Parsis. 31. Nothing in this Chapter shall apply to Parsis.

32. The property of an intestate devolves upon the wife or husband, or upon those who are of the kindred of the deceased, in the order and according to the rules hereinafter contained in this Chapter.  
Devolution of such property.

*Explanation.*—A widow is not entitled to the provision hereby made for her if, by a valid contract made before her marriage, she has been excluded from her distributive share of her husband's estate.

Where intestate has left widow and lineal descendants, or widow and kindred only, or widow and no kindred.

33. Where the intestate has left a widow—

(a) if he has also left any lineal descendants, one-third of his property shall belong to his widow, and the remaining two-thirds shall go to his lineal descendants, according to the rules hereinafter contained ;

(b) if he has left no lineal descendant, but has left persons who are of kindred to him, one-half of his property shall belong to his widow, and the other half shall go to those who are of kindred to him, in the order and according to the rules hereinafter contained ;

(c) if he has left none who are of kindred to him, the whole of his property shall belong to his widow.

34. Where the intestate has left no widow, his property shall go to his lineal descendants or to those who are of kindred to him not being lineal descendants, according to the rules hereinafter contained ; and, if he has left none who are of kindred to him, it shall go to the Crown.  
Where intestate has left no widow, and where he has left no kindred.

35. A husband surviving his wife has the same rights in respect of her property, if she dies intestate, as a widow has in respect of her husband's property, if he dies intestate.  
Rights of widower.

*Distribution where there are lineal descendants.*

36. The rules for the distribution of the intestate's property (after deducting the widow's share, if he has left a widow) amongst his lineal descendants shall be those contained in sections 37 to 40.  
Rules of distribution.

37. Where the intestate has left surviving him a child or children, but no more remote lineal descendant through a deceased child, the property shall belong to his surviving child, if there is only one, or shall be equally divided among all his surviving children.

Where intestate has left child or children only.

38. Where the intestate has not left surviving him any child, but has left a grandchild or grandchildren and no more remote descendant through a deceased grandchild, the property shall belong to his surviving grandchild if there is only one, or shall be equally divided among all his surviving grandchildren.

Where intestate has left no child, but grandchild or grandchildren.

*Illustrations.*

(i) A has three children, and no more, John, Mary and Henry. They all die before the father, John leaving two children, Mary three, and Henry four. Afterwards A dies intestate, leaving those nine grandchildren and no descendant of any deceased grandchild. Each of his grandchildren will have one-ninth.

(ii) But if Henry has died, leaving no child, then the whole is equally divided between the intestate's five grandchildren, the children of John and Mary.

39. In like manner the property shall go to the surviving lineal descendants who are nearest in degree to the intestate, where they are all in the degree of great-grandchildren to him, or are all in a more remote degree.

Where intestate has left only great-grandchildren or remoter lineal descendants.

40 (1) If the intestate has left lineal descendants who do not all stand in the same degree of kindred to him, and the persons through whom the more remote are descended from him are dead, the property shall be divided into such a number of equal shares as may correspond with the number of the lineal descendants of the intestate who either stood in the nearest degree of kindred to him at his decease, or, having been of the like degree of kindred to him died before him, leaving lineal descendants who survived him.

Where intestate leaves lineal descendants not all in same degree of kindred to him, and those through whom the more remote are descended are dead.

(2) One of such shares shall be allotted to each of the lineal descendants who stood in the nearest degree of kindred to the intestate at his decease ; and one of such shares shall be allotted in respect of each of such deceased lineal descendants ; and the share allotted in respect of each of such deceased lineal descendants shall belong to his surviving child or children or more remote lineal descendants, as the case may be ; such surviving child or children or more remote lineal descendants always taking the share which his or their parent or parents would have been entitled to respectively if such parent or parents had survived the intestate.

*Illustrations.*

(i) A had three children, John, Mary and Henry ; John died, leaving four children, and Mary died, leaving one, and Henry alone survived the father.

On the death of A, intestate, one-third is allotted to Henry, one-third to John's four children, and the remaining third to Mary's one child.

(ii) A left no child, but left eight grandchildren, and two children of a deceased grandchild. The property is divided into nine parts, one of which is allotted to each grandchild, and the remaining one-ninth is equally divided between the two great-grandchildren.

(iii) A has three children, John, Mary and Henry ; John dies leaving four children ; and one of John's children dies leaving two children. Mary dies leaving one child. A afterwards dies intestate. One-third of his property is allotted to Henry, one-third to Mary's child, and one-third is divided into four parts, one of which is allotted to each of John's three surviving children, and the remaining part is equally divided between John's two grandchildren.

(iv) A has two children, and no more, John and Mary. John dies before his father, leaving his wife pregnant. Then A dies leaving Mary surviving him, and in due time a child of John is born. A's property is to be equally divided between Mary and the posthumous child.

*Distribution where there are no lineal descendants.*

41. Where an intestate has left no lineal descendants, the rules for the distribution of his property (after deducting the widow's share, if he has left a widow) shall be those contained in sections 42 to 48.

Rules of distribution where intestate has left no lineal descendants.

42. If the intestate's father is living, he shall succeed to the property.

Where intestate's father living.

43. If the intestate's father is dead, but the intestate's mother is living and there are also brothers or sisters of the intestate living, and there is no child living of any deceased brother or sister, the mother and each living brother or sister shall succeed to the property in equal shares.

Where intestate's father dead but his mother, brothers and sisters living.

*Illustration*

A dies intestate, survived by his mother and two brothers of the full blood, John and Henry, and a sister Mary, who is the daughter of his mother but not of his father. The mother takes one fourth, each brother takes one-fourth and Mary the sister of half blood, takes one fourth.

44. If the intestate's father is dead, but the intestate's mother is living and if any brother or sister and the child or children of any brother or sister who may have died in the intestate's lifetime are also living, then the mother and each living brother or sister, and the living child or children of each deceased brother or sister, shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Where intestate's father dead and his mother, a brother or sister, and children of any deceased brother or sister, living.

*Illustration.*

A, the intestate, leaves his mother, his brothers John and Henry, and also one child of a deceased sister, Mary, and two children of George, a deceased brother of the half blood who was the son of his father but not of his mother. The mother takes one-fifth, John and Henry each takes one-fifth, the child of Mary takes one-fifth, and the two children of George divide the remaining one-fifth equally between them.

45 If the intestate's father is dead, but the intestate's mother is living, Where intestate's father dead and his mother and children of any deceased brother or sister living, and the brothers and sisters are all dead, but all or any of them have left children who survived the intestate, the mother and the child or children of each deceased brother or sister shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken, if living at the intestate's death.

*Illustration.*

A, the intestate, leaves no brother or sister, but leaves his mother and one child of a deceased sister, Mary, and two children of a deceased brother, George. The mother takes one-third, the child of Mary takes one-third, and the children of George divide the remaining one-third equally between them.

Where intestate's father dead, but his mother living and no brother, sister, nephew or niece. . 46. If the intestate's father is dead, but the intestate's mother is living, and there is neither brother, nor sister, nor child of any brother or sister of the intestate, the property shall belong to the mother.

47. Where the intestate has left neither lineal descendant, nor father, nor mother, the property shall be divided equally between his brothers and sisters and the child or children of such of them as may have died before him, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Where intestate has left neither lineal descendant, nor parent, nor brother, nor sister. 48. Where the intestate has left neither lineal descendant, nor parent, nor brother, nor sister, his property shall be divided equally among those of his relatives who are in the nearest degree of kindred to him.

*Illustrations.*

(i) A, the intestate, has left a grandfather and a grandmother and no other relative standing in the same or a nearer degree of kindred to him. They, being in the second degree, will be entitled to the property in equal shares, exclusive of any uncle or aunt of the intestate, uncles and aunts being only in the third degree.

(ii) A, the intestate, has left a great-grandfather, or a great-grandmother, and uncles and aunts, and no other relative standing in the same or a nearer degree of kindred to him. All of these being in the third degree will take equal shares.

(iii) A, the intestate, left a great-grandfather, an uncle and a nephew, but no relative standing in a nearer degree of kindred to him. All of these being in the third degree will take equal shares.

(iv) Ten children of one brother or sister of the intestate, and one child of another brother or sister of the intestate, constitute the class of relatives of the nearest degree of kindred to him. They will each take one-eleventh of the property.

49 Where a distributive share in the property of a person who has died intestate is claimed by a child, or any descendant of a child, of such person, no money or other property which the intestate may, during his life, have paid, given or settled to, or for the advancement of, the child by whom or by whose descendant the claim is made shall be taken into account in estimating such distributive share.

Children's advancements not brought into hotchpot.

### CHAPTER III.

#### SPECIAL RULES FOR PARSI INTESTATES.

50. Where a Parsi dies leaving a widow and children, the property of which he dies intestate shall be divided among the widow and children, so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter.

Division of property among widow and children of intestate.

51. Where a female Parsi dies leaving a widower and children, the property of which she dies intestate shall be divided among the widower and such children, so that his share shall be double the share of each of the children.

Division of Property among widower and children of intestate.

52. When a Parsi dies leaving children but no widow, the property of which he dies intestate shall be divided amongst the children, so that the share of each son shall be four times the share of each daughter.

Division of property amongst the children of male intestate who leaves no widow.

53. When a female Parsi dies leaving children but no widower, the property of which she dies intestate shall be divided amongst the children in equal shares.

Division of property amongst the children of female intestate who leaves no widower.

54. If any child of a Parsi intestate has died in his or her lifetime, the widow or widower and issue of such child shall take the share which such child would have taken if living at the intestate's death in such manner as if such deceased child had died immediately after the intestate's death.

Division of pre-deceased child's share of intestate's property among the widow or widower and issue of such child.

Division of property when the intestate leaves a widow or widower, but no lineal descendants.

55. Where a Parsi dies leaving a widow or widower, but without leaving any lineal descendants,—

- (a) his or her father and mother, if both are living, or one of them if the other is dead, shall take one moiety of the property in respect of which he or she dies intestate, and the widow or widower shall take the other moiety, provided that, where both the father and the mother of the intestate survive him or her, the father's share shall be double the share of the mother ;
- (b) where neither the father nor the mother of the intestate survives him or her, the intestate's relatives on the father's side, in the order specified in Part I of Schedule II, shall take the moiety which the father and the mother would have taken if they had survived the intestate. The next-of-kin standing first in Part I of that Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity ;
- (c) where there are no relatives on the father's side, the intestate's widow or widower shall take the whole.

56. When a Parsi dies leaving neither lineal descendants nor a widow or widower, his or her next-of-kin, in the order set forth in Part II of Schedule II, shall be entitled to succeed to the whole of the property as to which he or she dies intestate. The next of kin standing first in Part II of the same Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity.

## PART VI.

### TESTAMENTARY SUCCESSION.

#### CHAPTER I.

##### *Introductory.*

Application of certain provisions of Part to a class of wills made by Hindus, etc.

57. The provisions of this Part which are set out in Schedule III shall, subject to the restrictions and modifications specified therein, apply—

- (a) to all wills and codicils made by any Hindu, Buddhist, Sikh or Jaina, on or after the first day of September, 1870, within the territories which at the said date were subject to the

Lieutenant-Governor of Bengal or within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Madrass and Bombay ; and

- (b) to all such wills and codicils made outside those territories and limits so far as relates to immoveable property situate within those territories or limits :

Provided that marriage shall not revoke any such will or codicil.

58. (1) The provisions of this Part shall not apply to testamentary succession to the property of any Muhammadan nor, save as provided by section 57, to testamentary succession to the property of any Hindu, Buddhist, Sikh or Jaina ; nor shall they apply to any will made before the first day of January, 1866.

(2) Save as provided in sub-section (1) or by any other law for the time being in force, the provisions of this Part shall constitute the law of British India applicable to all cases of testamentary succession.

## CHAPTER II.

### OF WILLS AND CODICILS.

Person capable of making wills. 59. Every person of sound mind not being a minor may dispose of his property by will.

*Explanation 1.*—A married woman may dispose by will of any property which she could alienate by her own act during her life.

*Explanation 2.*—Person who are deaf or dumb or blind are not thereby incapacitated for making a will if they are able to know what they do by it.

*Explanation 3.*—A person who is ordinarily insane may make a will during an interval in which he is of sound mind,

*Explanation 4.*—No person can make a will while is in such a state of mind, whether arising from intoxication or from illness or from any other cause, that he does not know what he is doing,

#### *Illustrations.*

(i) A can perceive what is going on in his immediate neighbourhood, and can answer familiar questions, but has not a competent understanding as to the nature of his property, or the persons who are of kindred to him, or in whose favour it would be proper that he should make his will. A cannot make a valid will.

(ii) A executes an instrument purporting to be his will, but he does not understand the nature of the instrument nor the effect of its provisions. This instrument is not a valid will.

(iii) A being very feeble and debilitated, but capable of exercising a judgment as to the proper mode of disposing of his property, makes a will. This is a valid will.



60. A father, whatever his age may be, may by will appoint a guardian or guardians for his child during minority.

61. A will or any part of a will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, is void.

*Illustrations.*

(i) A falsely and knowingly represents to the testator that the testator's only child is dead, or that he has done some undutiful act and thereby induces the testator to make a will in his, A's favour; such will has been obtained by fraud, and is invalid.

(ii) A, by fraud and deception, prevails upon the testator to bequeath a legacy to him. The bequest is void.

(iii) A, being a prisoner by lawful authority, makes his will. The will is not invalid by reason of the imprisonment.

(iv) A threatens to shoot B, or to burn his house or to cause him to be arrested on a criminal charge, unless he makes a bequest in favour of C. B, in consequence, makes a bequest in favour of C. The bequest is void, the making of it having been caused by coercion.

(v) A, being of sufficient intellect, if undisturbed by the influence of others, to make a will yet being so much under the control of B that he is not a free agent, makes a will, dictated by B. It appears that he would not have executed the will but for fear of B. The will is invalid.

(vi) A, being in so feeble a state of health as to be unable to resist importunity, is pressed by B to make a will of a certain purport and does so merely to purchase peace and in submission to B. The will is invalid.

(vii) A being in such a state of health as to be capable of exercising his own judgment and volition, B uses urgent intercession and persuasion with him to induce him to make a will of a certain purport. A, in consequence of the intercession and persuasion, but in the free exercise of his judgment and volition, make his will in the manner recommended by B. The will is not rendered invalid by the intercession and persuasion of B.

(viii) A, with a view to obtaining a legacy from B, pays him attention and flatters him and thereby produces in him a capricious partiality to A. B, in consequence of such attention and flattery, makes his will, by which he leaves a legacy to A. The bequest is not rendered invalid by the attention and flattery of A.

Will may be revoked or altered.

62. A will is liable to be revoked or altered by the maker of it at any time when he is competent to dispose of his property by will.

### CHAPTER III.

#### OF THE EXECUTION OF UNPRIVILEGED WILLS.

63. Every testator, not being a soldier employed in an expedition or engaged in actual warfare, or a mariner at sea, shall execute his will according to the following rules ;—

Execution of unprivileged wills.

- (a) The testator shall sign or shall affix his mark to the will, or it shall be signed by some other person in his presence and by his direction.
- (b) The signature or mark of the testator, or the signature of the person signing for him, shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a will.
- (c) The will shall be attested by two or more witnesses, each of whom has seen the testator sign or affix his mark to the will or has seen some other person sign the will, in the presence and by the direction of the testator, or has received from the testator, a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses shall sign the will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

64. If a testator, in a will or codicil duly attested, refers to any other document then actually written as expressing any part of his intentions such document shall be deemed to form a part of the will or codicil in which it is referred to.

Incorporation of papers  
by reference-

## CHAPTER IV,

### OF PRIVILEGED WILLS.

65. Any soldier being employed in an expedition or engaged in actual warfare, or any mariner being at sea, may, if he has completed the age of eighteen years, dispose of his property by a will made in the manner provided in section 66. Such wills are called privileged wills.

Privileged wills.

#### *Illustrations.*

(i) A, a medical officer attached to a regiment, is actually employed in an expedition. He is a soldier actually employed in an expedition, and can make a privileged will.

(ii) A, is at sea in a merchant-ship, of which he is the purser. He is a mariner, and, being at sea, can make a privileged will.

(iii) A, a soldier serving in the field against insurgents, is a soldier engaged in actual warfare, and as such can make a privileged will

(iv) A, a mariner of a ship, in the course of a voyage, is temporarily on shore while she is lying in harbour. He is, for the purposes of this section, a mariner at sea, and can make a privileged will.

(v) A, an admiral who commands a naval force, but who lives on shore, and only occasionally goes on board his ship, is not considered as at sea, and cannot make a privileged will.

(vi) A, a mariner serving on a military expedition, but not being at sea, is considered as a soldier, and can make a privileged will.

Mode of making, and  
rules for executing, privi-  
leged wills.

66. (1) Privileged wills may be in writing,  
or may be made by word of mouth,

(2) The execution of privileged wills shall be governed by the following rules :—

- (a) The will may be written wholly by the testator, with his own hand. In such case it need not be signed or attested.
- (b) It may be written wholly or in part by another person, and signed by the testator. In such case it need not be attested.
- (c) If the instrument purporting to be a will is written wholly or in part by another person and is not signed by the testator, it shall be deemed to be his will, if it is shown that it was written by the testator's directions or that he recognised it as his will.
- (d) If it appears on the face of the instrument that the execution of it in the manner intended by the testator was not completed, the instrument shall not, by reason of that circumstance, be invalid, provided that his non-execution of it can be reasonably ascribed to some cause other than the abandonment of the testamentary intentions expressed in the instrument.
- (e) If the soldier or mariner has written instructions for the preparation of his will, but has died before it could be prepared and executed, such instructions shall be considered to constitute his will.
- (f) If the soldier or mariner has, in the presence of two witnesses, given verbal instructions for the preparation of his will, and they have been reduced into writing in his lifetime, but he has died before the instrument could be prepared and executed, such instructions shall be considered to constitute his will, although they may not have been reduced into writing in his presence, nor read over to him.
- (g) The soldier or mariner may make a will by word of mouth by declaring his intentions before two witnesses present at the same time.
- (h) A will made by word of mouth shall be null at the expiration of one month after the testator, being still alive, has ceased to be entitled to make a privileged will.

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## CHAPTER V.

### OF THE ATTESTATION, REVOCATION, ALTERATION AND REVIVAL OF WILLS.

67. A will shall not be deemed to be insufficiently attested by reason of any benefit thereby given either by way of bequest or by way of appointment to any person attesting it, or to his or her wife or

Effect of gift to attest-  
ing witness.

husband ; but the bequest or appointment shall be void so far as concerns the person so attesting, or the wife or husband of such person, or any person claiming under either of them.

*Explanation*—A legatee under a will does not lose his legacy by attesting a codicil which confirms the will.

68. No person, by reason of interest in, or of his being an executor of, a will, shall be disqualified as a witness to prove the execution of the will or to prove the validity or invalidity thereof.

Witness not disqualified by interest or by being executor.

69. Every will shall be revoked by the marriage of the maker, except a will made in exercise of a power of appointment, when the property over which the power of appointment is exercised would not, in default of such appointment, pass to his or her executor or administrator, or to the person entitled in case of intestacy.

Revocation of will by testator's marriage.

*Explanation*—Where a man is invested with power to determine the disposition of property of which he is not the owner, he is said to have power to appoint such property.

70. No unprivileged will or codicil, nor any part thereof, shall be revoked otherwise than by marriage, or by another will or codicil, or by some writing declaring an intention to revoke the same and executed in the manner in which an unprivileged will is hereinbefore required to be executed, or by the burning, tearing or otherwise destroying the same by the testator or by some person in his presence and by his direction with the intention of revoking the same.

Revocation of unprivileged will or codicil.

#### *Illustrations.*

(i) A has made an unprivileged will. Afterwards A makes another unprivileged will which purports to revoke the first. This is a revocation.

(ii) A has made an unprivileged will. Afterwards, A, being entitled to make a privileged will, makes a privileged will, which purports to revoke his unprivileged will. This is a revocation.

71. No obliteration, interlineation or other alteration made in any unprivileged will after the execution thereof shall have any effect, except so far as the words or meaning of the will have been thereby rendered illegible, or undiscernible, unless such alteration has been executed in like manner as hereinbefore is required for the execution of the will :

Effect of obliteration, interlineation or alteration in unprivileged.

Provided that the will, as so altered, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses is made in the margin or on some other part of the will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the will.

72. A privileged will or codicil may be revoked by the testator by an unprivileged will or codicil, or by an act expressing an intention to revoke it and accompanied by such formalities as would be sufficient to give validity to a privileged will, or by the burning, tearing or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

*Explanation.*—In order to the revocation of a privileged will or codicil by an act accompanied by such formalities as would be sufficient to give validity to a privileged will, it is not necessary that the testator should at the time of doing that act be in a situation which entitles him to make a privileged will.

73. (1) No unprivileged will or codicil, nor any part thereof, which has been revoked in any manner, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and showing an intention to revive the same.

(2) When any will or codicil, which has been partly revoked and afterwards wholly revoked, is revived, such revival shall not extend to so much thereof as has been revoked before the revocation of the whole thereof, unless an intention to the contrary is shown by the will or codicil.

## CHAPTER VI.

### OF THE CONSTRUCTION OF WILLS.

74. It is not necessary that any technical words or terms of art be used in a will, but only that the wording be such that the intentions of the testator can be known therefrom.

75. For the purpose of determining questions as to what person or what property is denoted by any words used in a will, a Court shall inquire into every material fact relating to the persons who claim to be interested under such will, the property which is claimed as the subject of disposition, the circumstances of the testator and of his family, and into every fact a knowledge of which may conduce to the right application of the words which the testator has used.

#### *Illustrations.*

(i) A, by his will, bequeaths 1,000 rupees to his eldest son or to his youngest grandchild, or to his cousin, Mary. A Court may make inquiry in order to ascertain to what person the description in the will applies.

(ii) A, by his will, leaves to B "my estate called Black Acre." It may be necessary to take evidence in order to ascertain what is the subject-matter of the bequest; that is to say, what estate of the testator's is called Black Acre.

(iii) A, by his will, leaves to B "the estate which I purchased of C." It may be necessary to take evidence in order to ascertain what estate the testator purchased of C.

Misnomer or misdescription of object.

76. (1) Where the words used in a will to designate or describe a legatee or a class of legatees sufficiently show what is meant, an error in the name or description shall not prevent the legacy from taking effect.

(2) A mistake in the name of a legatee may be corrected by a description of him, and a mistake in the description of a legatee may be corrected by the name.

#### *Illustrations.*

(i) A bequeaths a legacy to "Thomas, the second son of my brother John." The testator has an only brother named John, who has no son named Thomas, but has a second son whose name is William. William will have the legacy.

(ii) A bequeaths a legacy "to Thomas, the second son of my brother John." The testator has an only brother, named John, whose first son is named Thomas, and whose second son is named William. Thomas will have the legacy.

(iii) The testator bequeaths his property "to A and B, the legitimate children of C." C has no legitimate child, but has two illegitimate children, A and B. The bequest to A and B takes effect, although they are illegitimate.

(iv) The testator gives his residuary estate to be divided among "my seven children" and, proceeding to enumerate them, mentions six names only. This omission will not prevent the seventh child from taking a share with the others.

(v) The testator, having six grandchildren, makes a bequest to "my six grandchildren" and, proceeding to mention them by their Christian names, mentions one twice over omitting another altogether. The one whose name is not mentioned will take a share with the others.

(vi) The testator bequeaths "1,000 rupees to each of the three children of A." At the date of the will A has four children. Each of these four children will, if he survives the testator, receive a legacy of 1,000 rupees.

When words may be supplied.

77. Where any word material to the full expression of the meaning has been omitted, it may be supplied by the context.

#### *Illustration.*

The testator gives a legacy of "five hundred" to his daughter A and a legacy of "five hundred rupees" to his daughter B. A will take a legacy of five hundred rupees.

Rejection of erroneous particulars in description of subject.

78. If the thing which the testator intended to bequeath can be sufficiently identified from the description of it given in the will, but some parts of the description do not apply, such parts of the description shall be rejected as erroneous, and the bequest shall take effect.

#### *Illustrations.*

(i) A bequeaths to B "my marsh-lands lying in L and in the occupation of X." The testator had marsh-lands lying in L but had no marsh-lands in the occupation of X. The words "in the occupation of X" shall be rejected as erroneous and the marsh-lands of the testator lying in L will pass by the bequest.

(ii) The testator bequeaths to A "my zamindari of Rampur. He had an estate at Rampur but it was a taluq and not a zamindari. The taluq passes by this bequest.

When part of description may not be rejected as erroneous.

79 If a will mentions several circumstances as descriptive of the thing which the testator intends to bequeath, and there is any property of his in respect of which all those circumstances exist, the bequest shall be considered as limited to such property, and it shall not be lawful to reject any part of the description as erroneous, because the testator had other property to which such part of the description does not apply.

*Explanation.*—In judging whether a case falls within the meaning of this section, any words which would be liable to rejection under section 78 shall be deemed to have been struck out of the will

#### *Illustrations.*

(i) A bequeaths to B "my marsh-lands lying in L. and in the occupation of X." The testator had marsh-lands lying in L. some of which were in the occupation of X, and some not in the occupation of X. The bequest will be considered as limited to such of the testator's marsh-lands lying in L as were in the occupation of X.

(ii) A bequeaths to B "my marsh lands lying in L and in the occupation of X, comprising 1,000 bighas of lands." The testator had marsh-lands lying in L some of which were in the occupation of X and some not in the occupation of X. The measurement is wholly inapplicable to the marsh-lands of either class, or to the whole taken together. The measurement will be considered as struck out of the will, and such of the testator's marsh-lands lying in L as were in the occupation of X shall alone pass by the bequest.

80. Where the words of a will are unambiguous, but it is found by extrinsic evidence admissible in cases of patent ambiguity, that they admit of applications, one only of which can have been intended by the testator, extrinsic evidence may be taken to show which of these applications was intended.

#### *Illustrations.*

(i) A man, having two consins of the name of Mary, bequeaths a sum of money to "my cousin Mary." It appears that there are two persons, each answering the description in the will. That description, therefore admits of two applications, only one of which can have been intended by the testator. Evidence is admissible to show which of the two applications was intended.

(ii) A, by his will, leaves to B "my estate called Sultanpur Khurd." It turns out that he had two estates called Sultanpur Khurd. Evidence is admissible to show which estate was intended.

Extrinsic evidence inadmissible in case of patent ambiguity or deficiency.

81. Where there is an ambiguity or deficiency on the face of a will, no extrinsic evidence as to the intentions of the testator shall be admitted.

*Illustrations.*

(i) A man has an aunt, Caroline, and a cousin, Mary, and has no aunt of the name of Mary. By his will he bequeaths 1,000 rupees to "my aunt, Caroline" and 1,000 rupees to "my cousin, Mary" and afterwards bequeaths 2,000 rupees to "my before-mentioned aunt, Mary." There is no person to whom the description given in the will can apply, and evidence is not admissible to show who was meant by "my before-mentioned aunt, Mary." The bequest is therefore void for uncertainty under section 89.

(ii) A bequeaths 1,000 rupees to leaving a blank for the name of the legatee. Evidence is not admissible to show what name the testator intended to insert.

(iii) A bequeaths to B rupees, or "my estate of ." Evidence is not admissible to show what sum or what estate the testator intended to insert.

82 The meaning of any clause in a will is to be collected from the entire instrument, and all its parts are to be construed with reference to each other.

Meaning of clause to be collected from entire will.

*Illustrations.*

(i) The testator gives to B a specific fund or property at the death of A. and by a subsequent clause gives the whole of his property to A. The effect of the several clauses taken together is to vest the specific fund or property in A for life, and after his decease in B; it appearing from the bequest to B that the testator meant to use in a restricted sense the words in which he describes what he gives to A.

(ii) Where a testator having an estate, one part of which is called Black Acre, bequeaths the whole of his estate to A, and in another part of his will bequeaths Black Acre to B, the latter bequest is to be read as an exception out of the first as if he had said "I give Black Acre to B, and all the rest of my estate to B"

83. General words may be understood in a restricted sense where When words may be it may be collected from the will that the testator understood in restricted sense; understood in restricted sense; sense, and when in sense, and words may be understood in a wider sense than that which they usually bear, where it may be collected from the other words of the will that the testator meant to use them in such wider sense.

*Illustrations.*

(i) A testator gives to A "my firm in the occupation of B," and to C "all my marsh-lands in L." Part of the farm in the occupation of B consists of marsh-land in L. and the testator also has other marsh-lands in L. The general words, "all my marsh-lands in L," are restricted by the gift to A. A takes the whole of the farm in the occupation of B, including that portion of the farm which consists of marsh-lands in L.

(ii) The testator (a sailor on ship-board) bequeathed to his mother his gold ring, buttons and chest of clothes, and to his friend, A (a shipmate), his red box, clasp-knife and all things not before bequeathed. The testator's share in a house does not pass to A under this bequest.



( iii ) A, by his will, bequeathed to B all his household furniture, plate, linen, china, books, pictures and all other goods of whatever kind ; and afterwards bequeathed to B a specified part of his property. Under the first bequest, B is entitled only to such articles of the testator's as are of the same nature with the articles therein enumerated.

84. Where a clause is susceptible of two meanings according to one Which of two possible of which it has some effect, and according to the constructions preferred other of which it can have none, the former shall be preferred.

85. No part of a will shall be rejected as destitute of meaning if it No part rejected, if it is possible to put a reasonable construction can be reasonably construed upon it.

86. If the same words occur in different parts of the same will, Interpretation of words they shall be taken to have been used everywhere repeated in different in the same sense, unless a contrary intention parts of will. appears.

87. The intention of the testator shall not be set aside because it can- Testator's intention to not take effect to the full extent, but effect is to be effectuated as far as be given to it as far as possible. possible.

#### *Illustration.*

The testator by a will made on his death-bed bequeathed all his property to C D for life and after his decease to a certain hospital. The intention of the testator cannot take effect to its full extent, because the gift to the hospital is void under section 118, but it will take effect so far as regards the gift to C D.

88. Where two clauses or gifts in a will are irreconcilable, so that The last of two incon- they cannot possibly stand together, the last shall sistent clauses prevails prevail.

#### *Illustrations.*

( i ) The testator by the first clause of his will leaves his estate of Ramnagar "to A," and by the last clause of his will leaves it "to B and not to A." will have it.

( ii ) If a man at the commencement of his will gives his house to A and at the close of it directs that his house shall be sold and the proceeds invested for the benefit of B, the latter disposition will prevail.

89. A will or bequest not expressive of any definite intention is void Will or bequest void for for uncertainty. uncertainty.

#### *Illustration,*

If a testator says "I bequeath goods to A," or "I bequeath to A," or "I leave to A all the goods mentioned in the Schedule" and no Schedule is found, or "I bequeath 'money 'wheat,' 'oil' or the like, without saying how much, this is void.

90. The description contained in a will of property, the subject of gift, shall, unless a contrary intention appears by the will, be deemed, to refer to and comprise the property answering that description at the death of the testator.

Words describing subject refer to property answering description at testator's death.

91. Unless a contrary intention appears by the will, a bequest of the estate of the testator shall be construed to include any property which he may have power to appoint by will to any object he may think proper, and shall operate as an execution of such power ; and a bequest of property described in a general manner shall be construed to include any property to which such description may extend, which he may have power to appoint by will to any object he may think proper, and shall operate as an execution of such power.

Power of appointment executed by general bequest.

92. Where property is bequeathed to or for the benefit of certain objects as a specified person may appoint or for the benefit of certain objects in such proportions as a specified person may appoint, and the will does not provide for the event of no appointment being made ; if the power given by the will is not exercised, the property belongs to all the objects of the power in equal shares.

Implied gift to objects of power in default of appointment.

*Illustration.*

A, by his will, bequeaths a fund to his wife for her life, and directs that at her death it shall be divided among his children in such proportions as she shall appoint. The widow dies without having made any appointment. The fund will be divided equally among the children.

93. Where a bequest is made to the " heirs ", or " right heirs " or " nearest relations " or " family " or " kindred " or " nearest of kin " or " next-of kin " of a particular person without any qualifying terms, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person and he had died intestate in respect of it, leaving assets for the payment of his debts independently of such property.

Bequest to ' heirs,' of particular person without qualifying terms

*Illustrations.*

(i) A leaves his property " to my own nearest relations ". The property goes to those who would be entitled to it if A had died intestate, leaving assets for the payment of his debts independently of such property.

(ii) A bequeaths 10,000 rupees " to B for his life, and, after the death of B, to my own right heirs ". The legacy after B's death belongs to those who would be entitled to it if it had formed part of A's unbequeathed property.

(iii) A leaves his property to B ; but if B dies before him, to B's next-of-kin ; B dies before A ; the property devolves as if it had belonged to B, and he had died intestate, leaving assets for the payment of his debts independently of such property.

(iv) A leaves 10,000 rupees " to B for his life, and after his decease to the heirs of C ". The legacy goes as if it had belonged to C, and he had died intestate, leaving assets for the payment of his debts independently of the legacy.

94. Where a bequest is made to the "representatives" or "legal representatives" or "personal representatives" or "executors or administrators" of a particular person, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person and he had died intestate in respect of it.

*Illustration.*

A bequest is made to the "legal representatives" of A. A has died intestate and insolvent. B is his administrator, B is entitled to receive the legacy, and will apply it in the first place to the discharge of such part of A's debts as may remain unpaid; if there be any surplus, B will pay it to those persons who at A's death would have been entitled to receive any property of A's which might remain after payment of his debts, or to the representatives of such persons.

95. Where property is bequeathed to any person, he is entitled to the whole interest of the testator therein, unless it appears from the will that only a restricted interest was intended for him.

96. Where property is bequeathed to a person with a bequest in the alternative to another person or to a class of persons, then, if a contrary intention does not appear by the will, the legatee first named shall be entitled to the legacy if he is alive at the time when it takes effect; but if he is then dead, the person or class of persons named in the second branch of the alternative shall take the legacy.

*Illustrations.*

(i) A bequest is made to A or to B. A survives the testator. B takes nothing.

(ii) A bequest is made to A or to B. A dies after the date of the will, and before the testator. The legacy goes to B.

(iii) A bequest is made to A or to B. A is dead at the date of the will. the legacy goes to B,

(iv) Property is bequeathed to A or his heirs. A survives the testator. A takes the property absolutely.

(v) Property is bequeathed to A or his nearest of kin. A dies in the lifetime of the testator. Upon the death of the testator, the bequest to A's nearest of kin takes effect.

(vi) Property is bequeathed to A for life, and after his death to B or his heirs. A and B survive the testator. B dies in A's lifetime. Upon A's death the bequest to the heirs of B takes effect.

(vii) Property is bequeathed to A for life, and after his death to B or his heirs. B dies in the testator's lifetime. A survives the testator. Upon A's death the bequest to the heirs of B takes effect.

97. Where property is bequeathed to a person, and words are added which describe a class of persons but do not denote them as direct objects of a distinct and independent gift, such person is entitled to the whole interest of the testator therein, unless a contrary intention appears by the will.

*Illustrations.*

(i) A bequest is made—

- to A and his children,
- to A and his children by his present wife,
- to A and his heirs,
- to A and the heirs of his body,
- to A and the heirs male of his body,
- to A and the heirs female of his body,
- to A and his issue,
- to A and his family,
- to A and his descendants.
- to A and his representatives
- to A and his personal representatives,
- to A, his executors and administrators.

In each of these cases, A takes the whole interest which the testator had in the property.

(ii) A bequest is made to A and his brothers. A and his brothers are jointly entitled to the legacy.

(iii) A bequest is made to A for life and after his death to his issue. At the death of A the property belongs in equal shares to all persons who then answer the description of issue of A.

98. Where a bequest is made to a class of persons under a general description only, no one to whom the words of the description are not in their ordinary sense applicable shall take the legacy.

Bequest to class of persons under general description only.

Construction of terms.

99. In a will—

(a) the word “children” applies only to lineal descendants in the first degree of the person whose “children” are spoken of ;

(b) the word “grandchildren” applies only to lineal descendants in the second degree of the person whose “grandchildren” are spoken of ;

(c) the words “nephews” and “nieces” apply only to children of brothers or sisters ;

(d) the words “cousins,” or “first cousins,” or “cousins-german,” apply only to children of brothers or of sisters of the father or mother of the person whose “cousins,” or “first cousins,” or “cousins-german,” are spoken of ;

(e) the words “first cousins once removed” apply only to children of cousins german, or to cousins-german of a parent of the person whose “first cousins once removed” are spoken of ;

(f) the words “second cousins” apply only to grandchildren of brothers or of sisters of the grandfather or grandmother of the person whose “second cousins” are spoken of ;

(g) the words "issue" and "descendants" apply to all lineal descendants whatever of the person whose "issue" or "descendants" are spoken of ;

(h) words expressive of collateral relationship apply alike to relatives of full and of half blood ; and

(i) all words expressive of relationship apply to a child in the womb who is afterwards born alive.

100. In the absence of any intimation to the contrary in a will, the word "child," the word "son," the word "daughter," or any word which expresses relationship, is to be understood as denoting only a legitimate relative, or, where there is no such legitimate relative, a person who has acquired, at the date of the will, the reputation of being such relative.

Words expressing relationship denote only legitimate relatives or failing such relatives reputed legitimate.

#### *Illustrations.*

(i) A having three children, B, C and D, of whom B and C are legitimate and D is illegitimate, leaves his property to be equally divided among "my children." The property belongs to B and C in equal shares, to the exclusion of D.

(ii) A, having a niece of illegitimate birth, who has acquired the reputation of being his niece, and having no legitimate niece, bequeaths a sum of money to his niece. The illegitimate niece is entitled to the legacy.

(iii) A, having in his will enumerated his children, and named as one of them B, who is illegitimate, leaves a legacy to "my said children." B will take a share in the legacy along with the legitimate children.

(iv) A leaves a legacy to the "children of B." B is dead and has left none but illegitimate children. All those who had at the date of the will acquired the reputation of being the children of B are objects of the gift.

(v) A bequeaths a legacy to "the children of B." B never had any legitimate child. C and D had, at the date of the will, acquired the reputation of being children of B. After the date of the will and before the death of the testator, E and F were born, and acquired the reputation of being children of B. Only C and D are objects of the bequest.

(vi) A makes a bequest in favour of his child by a certain woman not his wife. B had acquired at the date of the will the reputation of being the child of A by the woman designated. B takes the legacy.

(vii) A makes a bequest in favour of his child to be born of a woman who never becomes his wife. The bequest is void.

(viii) A makes a bequest in favour of the child of which a certain woman, not married to him, is pregnant. The bequest is valid.

101. Where a will purports to make two bequests to the same person, and a question arises whether the testator intended to make the second bequest instead of or in addition to the first ; if there is nothing in the will to show what he intended, the following rules shall have effect in determining the construction to be put upon the will :—

Rules of construction where will purports to make two bequests to same person.

(a) If the same specific thing is bequeathed twice to the same legatee in the same will or in the will and again in the codicil, he is entitled to receive that specific thing only.

- (b) Where one and the same will or one and the same codicil purports to make in two places, a bequest to the same person of the same quantity or amount of anything, he shall be entitled to one such legacy only.
- (c) Where two legacies of unequal amount are given to the same person in the same will, or in the same codicil, the legatee is entitled to both.
- (d) Where two legacies, whether equal or unequal in amount, are given to the same legatee, one by a will and the other by a codicil, or each by a different codicil, the legatee is entitled to both legacies.

*Explanation.*—In clauses (a) to (d) of this section, the word “will” does not include a codicil.

*Illustrations.*

(i) A, having ten shares, and no more, in the Imperial Bank of India, made his will, which contains near its commencement to words “I bequeath my ten shares in the Imperial Bank of India to B.” After other bequests, the will concludes with the words “and I bequeath my ten shares in the Imperial Bank of India to B” B is entitled simply to receive A’s ten shares in the Imperial Bank of India.

(ii) A, having one diamond ring, which was given him by B, bequeaths to C the diamond ring, which has given by B. A afterwards made a codicil to his will, and thereby, after giving other legacies he bequeathed to C the diamond ring which was given him by B. C can claim nothing except the diamond ring which was given to A by B.

(iii) A, by his will, bequeaths to B the sum of 5,000 rupees and afterwards in the same will repeats the bequest in the same words. B is entitled to one legacy of 5,000 rupees only.

(iv) A, by his will, bequeaths to B the sum of 5,000 rupees and afterwards in the same will bequeaths to B the sum of 6,000 rupees. B is entitled to receive 11,000 rupees,

(v) A, by his will, bequeaths to B 5,000 rupees and by a codicil to the will he bequeaths to him 5,000 rupees. B is entitled to receive 10,000 rupees.

(vi) A, by one codicil to his will, bequeaths to B 5,000 rupees and by another codicil bequeaths to him 6,000 rupees. B is entitled to receive 11,000 rupees.

(vii) A, by his will, bequeaths “500 rupees to B because she was my nurse,” and in another part of the will bequeaths 500 rupees to B “because she went to England with my children.” B is entitled to receive 1,000 rupees.

(viii) A, by his will, bequeaths to B the sum of 5,000 rupees and also, in another part of the will, an annuity of 400 rupees B is entitled to both legacies.

(ix) A, by his will, bequeaths to B the sum of 5,000 rupees and also bequeaths to him the sum of 5,000 rupees if he shall attain the age of 18. B is entitled absolutely to one sum of 5,000 rupees, and takes a contingent interest in another sum of 5,000 rupees.

102. A residuary legatee may be constituted by any words that show an intention on the part the testator that the person designated shall take the surplus or residue of his property.

Constitution of residuary legatee.

*Illustrations.*

(i) A makes her will, consisting of several testamentary papers, in one of which are contained the following words:—"I think there will be something left, after all funeral expenses, etc., to give to B, now at school, towards equipping him to any profession he may hereafter be appointed to". B is constituted residuary legatee.

(ii) A makes his will, with the following passage at the end of it:—"I believe there will be found sufficient in my banker's hands to defray and discharge my debts, which I hereby desire B to do, and keep the residue for her own use and pleasure". B is constituted the residuary legatee.

(ii) A bequeaths all his property to B, except certain stocks and funds, which he bequeaths to C. B is the residuary legatee.

103. Under a residuary bequest, the legatee is entitled to all property belonging to the testator at the time of his death, of which he has not made any other testamentary disposition which is capable of taking effect.

Property to which residuary legatee entitled.

*Illustration.*

A by his will bequeaths certain legacies, of which one is void under section 118, and another lapses by the death of the legatee. He bequeaths the residue of his property to B. After the date of his will A purchase a zamindari, which belongs to him at the time of his death. B is entitled to the two legacies and the zamindari as part of the residue.

104. If a legacy is given in general terms without specifying the time when it is to be paid, the legatee has a vested interest in it from the day of the death of the testator, and, if he dies without having received it, it shall pass to his representatives.

Time of vesting legacy in general terms.

105. (1) If the legatee does not survive the testator, the legacy cannot take effect, but shall lapse and form part of the residue of the testator's property, unless it appears by the will that the testator intended that it should go to some other person.

In what case legacy lapses.

(2) In order to entitle the representatives of the legatee to receive the legacy, it must be proved that he survived the testator.

*Illustrations.*

(i) The testator bequeaths to B "500 rupees which B owes me". B dies before the testator; the legacy lapses.

(ii) A bequest is made to A and his children. A dies before the testator, or happens to be dead when the will is made. The legacy to A and his children lapses.

(iii) A legacy is given to A, and, in case of his dying before the testator, to B. A dies before the testator. The legacy goes to B.

(iv) A sum of money is bequeathed to A for life, and after his death to B. A dies in the lifetime of the testator; B survives the testator. The bequest to B takes effect.

(v) A sum of money is bequeathed to A on his completing his eighteenth year, and in case he should die before he completes his eighteenth year, to B A completes his eighteenth year, and dies in the lifetime of the testator. The legacy to A lapses and the bequest to B does not take effect.

(vi) The testator and the legatee perished in the same shipwreck. There is no evidence to show which died first. The legacy lapses.

Legacy does not lapse if one of two joint legatees die before testator.

106. If a legacy is given to two persons jointly, and one of them dies before the testator, the other legatee takes the whole.

*Illustration.*

The legacy is simply to A and B. A dies before the testator. B takes the legacy.

107. If a legacy is given to legatees in words which show that the testator intended to give them distinct shares of it, then, if any legatee dies before the testator, so much of the legacy as was intended for him shall fall into the residue of the testator's property.

Effect of words showing testator's intention to give distinct shares.

*Illustration.*

A sum of money is bequeathed to A, B and C, to be equally divided among them. A dies before the testator. B and C will only take so much as they would have had if A had survived the testator.

108. Where a share which lapses is a part of the general residue bequeathed by the will, that share shall go as When lapsed share goes as undisposed of. undisposed of.

*Illustration.*

The testator bequeaths the residue of his estate to A, B and C, to be equally divided between them. A dies before the testator. His one-third of the residue goes as undisposed of.

109. Where a bequest has been made to any child or other lineal descendant of the testator, and the legatee dies in the lifetime of the testator, but any lineal descendant of his survives the testator, the bequest shall not lapse, but shall take effect as if the death of the legatee had happened immediately after the death of the testator, unless a contrary intention appears by the will.

*Illustration.*

A makes his will, by which he bequeaths a sum of money to his son, B, for his own absolute use and benefit. B dies before A, leaving a son, C, who survives A, and having made his will whereby he bequeaths all his property to his widow, D. The money goes to D.



Bequest to A for benefit of B does not lapse by A's death.

110. Where a bequest is made to one person for the benefit of another, the legacy does not lapse by the death, in the testator's lifetime, of the person to whom the bequest is made.

Survivorship in case of bequest to described class.

111. Where a bequest is made simply to a described class of persons, the thing bequeathed shall go only to such as are alive at the testator's death.

*Exception.*—If property is bequeathed to a class of persons described as standing in a particular degree of kindred to a specified individual, but their possession of it is deferred until a time later than the death of the testator by reason of a prior bequest or otherwise, the property shall at that time go to such of them as are then alive, and to the representatives of any of them who have died since the death of the testator.

### *Illustrations.*

(i) A bequeaths 1,000 rupees to "the children of B" without saying when it is to be distributed among them. B had died previous to the date of the will, leaving three children, C, D, and E. E died after the date of the will, but before the death of A. C and D survive A. The legacy will belong to C and D, to the exclusion of the representatives of E.

(ii) A lease for years of a house was bequeathed to A for his life, and after his decease to the children of B. At the death of the testator, B had two children living, C and D, and he never had any other child. Afterwards, during the lifetime of A, C died, leaving E, his executor. D has survived A. D and E are jointly entitled to so much of the leasehold term as remains unexpired.

(iii) A sum of money was bequeathed to A for her life, and after her decease, to the children of B. At the death of the testator, B had two children living, C and D, and, after that event, two children, E and F, were born to B. C and E died in the lifetime of A, C having made a will, E, having made no will. A has died, leaving D and F surviving her. The legacy is to be divided into four equal parts, one of which is to be paid to the executor of C, one to D, one to the administrator of E and one to F.

(iv) A bequeaths one-third of his lands to B for his life, and after his decease to the sisters of B. At the death of the testator, B had two sisters living, C and D, and after that event another sister E was born. C died during the life of B, D and E have survived B. One-third of A's lands belong to D, E and the representatives of C, in equal shares.

(v) A bequeaths 1,000 rupees to B for life and after his death equally among the children of C. Up to the death of B, C had not had any child. The bequest after the death of B is void.

(vi) A bequeaths 1,000 rupees to "all the children born or to be born" of B to be divided among them at the death of C. At the death of the testator, B has two children living, D and E. After the death of the testator, but in the lifetime of C, two other children, F and G, are born to B. After the death of C, another child is born to B. The legacy belongs to D, E, F and G, to the exclusion of the after-born child of B.

(vii) A bequeaths a fund to the children of B, to be divided among them when the eldest shall attain majority. At the testator's death, B had one child living, named C. He afterwards had two other children, named D and E., E died, but C and D were living when C attained majority. The fund belongs to C, D and the representatives of E, to the exclusion of any child who may be born to B after C's attaining majority.

## CHAPTER VII.

### OF VOID BEQUESTS.

112. Where a bequest is made to a person by a particular description

and there is no person in existence at the testator's death who answers the description, the bequest is void.

Bequest to person by particular description, who is not in existence at testator's death.

*Exception.*—If property is bequeathed to a person described as standing in a particular degree of kindred to a specified individual, but his possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest or otherwise; and if a person answering the description is alive at the death of the testator, or comes into existence between that event and such later time, the property shall at such later time, go to that person, or, if he is dead, to his representatives.

#### *Illustrations.*

(i) A bequeaths 1,000 rupees to the eldest son of B. At the death of the testator, B has no son. The bequest is void.

(ii) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son. Afterwards during the life of B, a son is born to C. Upon B's death the legacy goes to C's son.

(iii) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son. Afterwards, during the life of B, a son, named D, is born to C. D dies, then B dies. The legacy goes to the representative of D.

(iv) A bequeaths his estate of Green Acre to B for life, and at his decease, to the eldest son of C. Up to the death of B, C has had no son. The bequest to C's eldest son is void.

(v) A bequeaths 1,000 rupees to the eldest son of C, to be paid to him after the death of B. At the death of the testator C has no son, but a son is afterwards born to him during the life of B and is alive at B's death. C's son is entitled to the 1,000 rupees.

113. Where a bequest is made to a person not in existence at the time

of the testator's death, subject to a prior bequest contained in the will, the later bequest shall be void, unless it comprises the whole of the remaining interest of the testator in the thing bequeathed.

Bequest to person not in existence at testator's death, subject to prior bequest.

*Illustrations.*

(i) Property is bequeathed to A for his life, and after his death to his eldest son for life and after the death of the latter to his eldest son. At the time of the testator's death, A has no son. Here the bequest to A's eldest son is a bequest to a person not in existence at the testator's death. It is not a bequest of the whole interest that remains to the testator. The bequest to A's eldest son for his life is void.

(ii) A fund is bequeathed to A for his life, and after his death to his daughters. A survives the testator. A has daughters some of whom were not in existence at the testator's death. The bequest to A's daughters comprises the whole interest that remains to the testator in the thing bequeathed. The bequest to A's daughters is valid.

(iii) A fund is bequeathed to A for his life, and after his death to his daughters, with a direction that, if any of them marries under the age of eighteen, her portion shall be settled so that it may belong to herself for life and may be divisible among her children after her death. A has no daughters living at the time of the testator's death, but has daughters born afterwards who survive him. Here the direction for a settlement has the effect in the case of each daughter who marries under eighteen of substituting for the absolute bequest to her a bequest to her merely for her life; that is to say a bequest to a person not in existence at the time of the testator's death of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund is void.

(iv) A bequeaths a sum of money to B for life, and directs that upon the death of B the fund shall be settled upon his daughters, so that the portion of each daughter may belong to herself for life, and may be divided among her children after her death. B has no daughter living at the time of the testator's death. In this case the only bequest to the daughters of B is contained in the direction to settle the fund, and this direction amounts to a bequest to persons not yet born, of a life interest in the fund, that is to say, of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund upon the daughters of B is void.

144. No bequest is valid whereby the vesting of the thing bequeathed may be delayed beyond the lifetime of one or more persons living at the testator's death and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing bequeathed is to belong.

*Illustrations.*

(i) A fund is bequeathed to A for his life and after his death to B for his life; and after B's death to such of the sons of B as shall first attain the age of 25. A and B survive the testator. Here the son of B who shall first attain the age of 25 may be a son born after the death of the testator such son may not attain 25 until more than 18 years have elapsed from the death of the longer liver of A and B; and the vesting of the fund may thus be delayed beyond the lifetime of A and B and the minority of the sons of B. The bequest after B's death is void.

(ii) A fund is bequeathed to A for his life, and after his death to B for his life, and after B's death to such of B's son as shall first attain the age of 25. B dies in the lifetime of the testator, leaving one or more sons. In this case the sons of B are persons living at the time of the testator's decease and the time when either of them will attain 25 necessarily falls within his own lifetime. The bequest is valid.

(iii) A fund is bequeathed to A for his life, and after his death to B for his life, with a direction that after B's death it shall be divided amongst such of B's children as shall attain the age of 18, but that, if no child of B shall attain that age, the fund shall go to C. Here the time for the division of the fund must arrive at the latest at the expiration of 18 years from the death of B, a person living at the testator's decease. All the bequests are valid.

(iv) A fund is bequeathed to trustees for the benefit of the testator's daughters, with a direction that if any of them marry under age, her share of the fund shall be settled so as to devolve after her death upon such of her children as shall attain the age of 18. Any daughter of the testator to whom the direction applies must be in existence at his decease, and any portion of the fund which may eventually be settled as directed must vest not later than 18 years from the death of the daughters whose share it was. All these provisions are valid.

115. If a bequest is made to a class of persons with regard to some of whom it is inoperative by reason of the provisions of section 113 or section 114, such bequest shall be wholly void.

#### *Illustrations.*

(i) A fund is bequeathed to A for life and after his death to all his children who shall attain the age of 25. A survives the testator, and has some children living at the testator's death. Each child of A's living at the testator's death must attain the age of 25 (if at all) within the limits allowed for a bequest. But A may have children after the testator's decease, some of whom may not attain the age of 25 until more than 18 years have elapsed after the decease of A. The bequest to A's children, therefore, is inoperative as to any child born after the testator's death; and, as it is given to all his children as a class it is not good as to any division of that class, but is wholly void.

(ii) A fund is bequeathed to A for his life, and after his death to B, C, D and all other children of A who shall attain the age of 25. B, C, D are children of A living at the testator's decease. In all other respects the case is the same as that supposed in *Illustration (i)*. The mention of B, C, and D by name does not prevent the bequest from being regarded as a bequest to a class, and the bequest is wholly void.

Bequest to take effect on failure of bequest void under section 113, 114 or 115.

116. Where a bequest is void by reason of any of the provisions of section 113, section 114, or section 115, any bequest contained in the same will, and intended to take effect after or upon failure of such prior bequest, is also void.

#### *Illustrations.*

(i) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, for his life, and after the decease of such son to B. A and B survive the testator. The bequest to B is intended to take effect after the bequest to such of the sons of A as shall first attain the age of 25, which bequest is void under section 114. The bequest to B is void.

(ii) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, and, if no son of A shall attain that age, to B. A and B survive the testator. The bequest to B is intended to

take effect upon failure of the bequest to such of A's sons as shall first attain the age of 25, which bequest is void under section 114. The bequest to B is void.

Effect of direction for accumulation,                      117. A direction to accumulate the income arising from any property shall be void ; and the property shall be disposed of as if no accumulation had been directed.

*Exception.*—Where the property is immoveable, or where accumulation is directed to be made from the death of the testator, the direction shall be valid in respect only of the income arising from the property within one year next following the testator's death : and at the end of the year such property and income shall be disposed of respectively, as if the period during which the accumulation has been directed to be made had elapsed.

#### *Illustrations.*

(i) The will directs that the sum of 10,000 rupees shall be invested in Government securities, and the income accumulated for 20 years, and that the principal, together with the accumulations, shall then be divided between A, B and C. A, B and C are entitled to receive the sum of 10,000 rupees at the end of a year from the testator's death.

(ii) The will directs that 10,000<sup>00</sup> rupees shall be invested, and the income accumulated until A shall marry, and shall then be paid to him. A is entitled to receive 10,000 rupees at the end of a year from the testator's death.

(iii) The will directs that the rents of the farm of Sultanpur shall be accumulated for ten years, and that the accumulation shall be then paid to the eldest son of A. At the death of the testator, A has an eldest son living, named B. B will receive, at the end of one year from the testator's death, the rents which have accrued during the year, together with any interest which may have been made by investing them.

(iv) The will directs that the rents of the farm of Sultanpur shall be accumulated for ten years, and that the accumulation shall then be paid to the eldest son of A. At the death of the testator, A has no son. The bequest is void.

(v) A bequeaths a sum of money to B, to be paid to him when he shall attain the age of 18, and directs the interest to be accumulated till he shall arrive at that age. At A's death the legacy becomes vested in B ; and so much of the interest as is not required for his maintenance and education is accumulated, not by reason of the direction contained in the will, but in consequence of B's minority.

118. No man having a nephew or niece or any nearer relative shall have power to bequeath any property to religious or charitable uses, except by a will executed not less than twelve months before his death, and deposited within six months from its execution in some place provided by law for the safe custody of the wills of living persons.

*Illustrations.*

A having a nephew makes a bequest by a will not executed and deposited as required—

- for the relief of poor people ;
- for the maintenance of sick soldiers ;
- for the erection or support of a hospital ;
- for the education and preferment of orphans ;
- for the support of scholars ;
- for the erection or support of a school ;
- for the building and repairs of a bridge ;
- for the making of roads ;
- for the erection or support of a church ;
- for the repairs of a church ;
- for the benefit of ministers of religion ;
- for the formation or support of a public garden ;

All these bequests are void.

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## CHAPTER VIII.

### OF THE VESTING OF LEGACIES.

119. Where by the terms of a bequest the legatee is not entitled to Date of vesting of leg- immediate possession of the thing bequeathed, acy when payment or right to receive it at the proper time shall, unless possession postponed, a contrary intention appears by the will, become vested in the legatee on the testator's death, and shall pass to the legatee's representatives if he dies before that time and without having received the legacy, and in such cases the legacy is from the testator's death said to be vested in interest.

*Explanation* —An intention that a legacy to any person shall not become vested in interest in him is not to be inferred merely from a provision whereby the payment or possession of the thing bequeathed is postponed, or whereby a prior interest therein is bequeathed to some other person, or whereby the income arising from the fund bequeathed is directed to be accumulated until the time of payment arrives, or from a provision that, if a particular event shall happen, the legacy shall go over to another person.

*Illustrations.*

(i) A bequeaths to B 100 rupees, to be paid to him at the death of C. On A's death the legacy becomes vested in interest in B, and if he dies before C, his representatives are entitled to the legacy.

(ii) A bequeaths to B 100 rupees, to be paid to him upon his attaining the age of 18. On A's death the legacy becomes vested in interest in B.

(iii) A fund is bequeathed to A for life, and after his death to B. On the testator's death the legacy to B becomes vested in interest in B.

(iv) A fund is bequeathed to A until B attains the age of 18 and then to B. The legacy to B is vested in interest from the testator's death.

(v) A bequeaths the whole of his property to B upon trust to pay certain debts out of the income, and then to make over the fund to C. At A's death the gift to C becomes vested in interest in him.

(vi) A fund is bequeathed to A, B and C in equal shares to be paid to them on their attaining the age of 18, respectively, with a proviso that, if all of them die under the age of 18, the legacy shall devolve upon D. On the death of the testator, the shares vested in interest in A, B and C, subject to be divested in case A, B and C shall all die under 18, and, upon the death of any of them (except the last survivor) under the age of 18, his vested interest passes, so subject, to his representatives.

120. (1) A legacy bequeathed in case a specified uncertain event shall happen does not vest until that event happens.  
Date of vesting when legacy contingent upon specified uncertain event.

(2) A legacy bequeathed in case a specified uncertain event shall not happen does not vest until the happening of that event becomes impossible.

(3) In either case, until the condition has been fulfilled, the interest of the legatee is called contingent.

*Exception.*—Where a fund is bequeathed to any person upon his attaining a particular age, and the will also gives to him absolutely the income to arise from the fund before he reaches that age, or directs the income, or so much of it as may be necessary, to be applied for his benefit, the bequest of the fund is not contingent.

#### *Illustrations.*

(i) A legacy is bequeathed to D in case A, B and C shall all die under the age of 18. D has a contingent interest in the legacy until A, B and C all die under 18, or one of them attains that age.

(ii) A sum of money is bequeathed to A "in case he shall attain the age of 18," or "when he shall attain the age of 18." A's interest in the legacy is contingent until the condition is fulfilled by his attaining that age.

(iii) An estate is bequeathed to A for life, and after his death to B if B shall then be living; but if B shall not be then living to C. A, B and C survive the testator. B and C each take a contingent interest in the estate until the event which is to vest it in one or in the other has happened.

(iv) An estate is bequeathed as in the case last supposed. B dies in the lifetime of A and C. Upon the death of B, C acquires a vested right to obtain possession of the estate upon A's death.

(v) A legacy is bequeathed to A when she shall attain the age of 18, or shall marry under that age with the consent of B, with a proviso that, if she neither attains 18 nor marries under that age with B's consent, the legacy shall go to C. A and C each take a contingent interest in the legacy. Attains the age of 18. A becomes absolutely entitled to the legacy although she may have married under 18 without the consent of B.

(vi) An estate is bequeathed to A until he shall marry and after that event to B. B's interest in the bequest is contingent until the condition is fulfilled by A's marrying.

(vii) An estate is bequeathed to A until he shall take advantage of any law for the relief of insolvent debtors, and after that event to B. B's interest in the bequest is contingent until A takes advantage of such a law.

(viii) An estate is bequeathed to A if he shall pay 500 rupees to B. A's interest in the bequest is contingent until he has paid 500 rupees to B.

(ix) A leaves his farm of Sultanpur Khurd to B, if B shall convey his own farm of Sultanpur Buzurg to C. B's interest in the bequest is contingent until he has conveyed the latter farm to C.

(x) A fund is bequeathed to A if B shall not marry C within five years after the testator's death. A's interest in the legacy is contingent until the condition is fulfilled by the expiration of the five years without B's having married C, or by the occurrence within that period of an event which makes the fulfilment of the condition impossible.

(xi) A fund is bequeathed to A if B shall not make any provision for him by will. The legacy is contingent until B's death.

(xii) A bequeaths to B 500 rupees a year upon his attaining the age of 18. and directs that the interest, or a competent part thereof, shall be applied for his benefit until he reaches that age. The legacy is vested.

(xiii) A bequeaths to B 500 rupees when he shall attain the age of 18, and directs that a certain sum, out of another fund, shall be applied for his maintenance until he arrives at that age. The legacy is contingent.

121. Where a bequest is made only to such members of a class as shall have attained a particular age, a person Vesting of interest in bequest to such members who has not attained that age cannot have a of a class as shall have vested interest in the legacy. attained particular age.

#### *Illustration.*

A fund is bequeathed to such of the children of A as shall attain the age of 18, with a direction that, while any child of A shall be under the age of 18, the income of the share, to which it may be presumed he will be eventually entitled, shall be applied for his maintenance and education. No child of A who is under the age of 18 has a vested interest in the bequest.

## CHAPTER IX.

### OF ONEROUS BEQUESTS.

122. Where a bequest imposes an obligation on the legatee, he can Onerous bequests. take nothing by it unless he accepts it fully.

#### *Illustration.*

A, having shares in (X), a prosperous joint stock company, and also shares in (Y), a joint stock company in difficulties, in respect of which shares heavy calls are expected to be made, bequeaths to B all his shares in joint stock companies; B refuses to accept the shares in (Y). He forfeits the shares in (X).



123. Where a will contains two separate and independent bequests to

One of two separate and independent bequests to same person may be accepted, and other refused.

the same person, the legatee is at liberty to accept one of them and refuse the other, although the former may be beneficial and the latter onerous.

*Illustration.*

A, having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is higher than the house can be let for, bequeaths to B the lease and a sum of money. B refuses to accept the lease. He will not by this refusal forfeit the money.

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## CHAPTER X.

### OF CONTINGENT BEQUESTS

124 Where a legacy is given if a specified uncertain event shall

Bequest contingent upon specified uncertain event, no time being mentioned for its occurrence.

happen and no time is mentioned in the will for the occurrence of that event, the legacy cannot take effect, unless such event happens before the period when the fund bequeathed is payable or distributable.

*Illustrations.*

(i) A legacy is bequeathed to A, and, in case of his death to B. If A survives the testator the legacy to B does not take effect.

(ii) A legacy is bequeathed to A, and, in case of his death without children, to B. If A survives the testator or dies in his lifetime leaving a child, legacy to B does not take effect.

(iii) A legacy is bequeathed to A when if he attains the age of 18, and in case of his death, to B. A attains the age of 18. The legacy to B does not take effect.

(iv) A legacy is bequeathed to A for life and, after his death to B, and, "in case of B's death without children," to C. The words "in case of B's death without children" are to be understood as meaning in case B dies without children during the lifetime of A.

(v) A legacy is bequeathed to A for life, and, after his death to B, and, "in case of B's death," to C. The words "in case of B's death" are to be considered as meaning "in case B dies in the lifetime of A."

125. Where a bequest is made to such of certain persons as shall be

Bequest to such of certain persons as shall be surviving at some period not specified.

surviving at some period, but the exact period is not specified, the legacy shall go to such of them as are alive at the time of payment or distribution, unless a contrary intention appears by the will.

*Illustrations.*

(i) Property is bequeathed to A and B to be equally divided between them or to the survivor of them. If both A and B survive the testator, the legacy is equally divided between them. If A dies before the testator, and B survives the testator, it goes to B.

(ii) Property is bequeathed to A for life, and, after his death, to B and C, to be equally divided between them or to the survivor of them. B dies during the life of A ; C survives A. At A's death the legacy goes to C.

(iii) Property is bequeathed to A for life, and after his death to B and C, or the survivor, with a direction that, if B should not survive the testator, his children are to stand in his place. C dies during the life of the testator ; B survives the testator, but dies in the lifetime of A. The legacy goes to the representative of B.

(iv) Property is bequeathed to A for life, and, after his death, to B and C, with a direction that, in case either of them dies in the lifetime of A, the whole shall go to the survivor. B dies in the lifetime of A. Afterwards C dies in the lifetime of A. The legacy goes to the representative of C.

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## CHAPTER XI.

### OF CONDITIONAL BEQUESTS.

Bequest upon impossible condition. 126. A bequest upon an impossible condition is void.

*Illustrations.*

(i) An estate is bequeathed to A on condition that he shall walk 100 miles in an hour. The bequest is void.

(ii) A bequeaths 500 rupees to B on condition that he shall marry A's daughter. A's daughter was dead at the date of the will. The bequest is void.

Bequest upon illegal or immoral condition. 127. A bequest upon a condition, the fulfilment of which would be contrary to law or to morality, is void.

*Illustrations.*

(i) A bequeaths 500 rupees to B on condition that he shall murder C. The bequest is void.

(ii) A bequeaths 5,000 rupees to his niece if she will desert her husband. The bequest is void.

Fulfilment of condition precedent to vesting of legacy. 128. Where a will imposes a condition to be fulfilled before the legatee can take a vested interest in the thing bequeathed, the condition shall be considered to have been fulfilled if it has been substantially complied with.

*Illustrations.*

(i) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, D and E. A marries with the written consent of B, C is present at the marriage. D sends a present to A previous to the marriage. E has been personally informed by A of his intentions, and has made no objection. A has fulfilled the condition.

(ii) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. D dies. A marries with the consent of B and C. A has fulfilled the condition.

(iii) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A marries in the lifetime of B, C and D, with the consent of B and C only. A has not fulfilled the condition.

(iv) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A obtains the unconditional assent of B, C and D to his marriage with E. Afterwards B, C and D capriciously retract their consent. A marries E. A has fulfilled the condition.

(v) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A marries without the consent of B, C and D, but obtains their consent after the marriage. A has not fulfilled the condition.

(vi) A makes his will whereby he bequeaths a sum of money to B if B shall marry with the consent of A's executors. B marries during the lifetime of A, and A afterwards expresses his approbation of the marriage. A dies. The bequest to B takes effect.

(vii) A legacy is bequeathed to A if he executes a certain document within a time specified in the will. The document is executed by A within a reasonable time, but not within the time specified in the will. A has not performed the condition, and is not entitled to receive the legacy.

Bequest to A and on failure of prior bequest to B. 129. Where there is a bequest\* to one person and a bequest of the same thing to another, if the prior bequest shall fail, the second bequest shall take effect upon the failure of the prior bequest although the failure may not have occurred in the manner contemplated by the testator

*Illustrations.*

(i) A bequeaths a sum of money to his own children surviving him, and, if they all die under 18, to B. A dies without having ever had a child. The bequest to B takes effect.

(ii) A bequeaths a sum of money to B, on condition that he shall execute a certain document within three months after A's death, and, if he should neglect to do so, to C. B dies in the testator's lifetime. The bequest to C takes effect.

When second bequest not to take effect on failure of first. 130. Where the will shows an intention that the second bequest shall take effect only in the event of the first bequest failing in a particular manner, the second bequest shall not take effect, unless the prior bequest fails in that particular manner.

*Illustration.*

A makes a bequest to his wife, but in case she should die in his lifetime, bequeaths to B that which he had bequeathed to her. A and his wife perish together, under circumstances which make it impossible to prove that she died before him, the bequest to B does not take effect.

Bequest over, conditional upon happening or not happening of specified uncertain event.

131. (1) A bequest may be made to any person with the condition superadded that, in case a specified uncertain event shall happen, the thing bequeathed shall go to another person, or that in case a specified uncertain event shall not happen, the thing bequeathed shall go over to another person.

(2) In each case the ulterior bequest is subject to the rules contained in sections 120, 121, 122, 123, 124, 125, 126, 127, 129 and 130.

*Illustrations.*

(i) A sum of money is bequeathed to A, to be paid to him at the age of 18, and if he shall die before he attains that age, to B. A takes a vested interest in the legacy, subject to be divested and to go to B in case A dies under 18.

(ii) An estate is bequeathed to A with a proviso that if A shall dispute the competency of the testator to make a will, the estate shall go to B. A disputes the competency of the testator to make a will. The estate goes to B.

(iii) A sum of money is bequeathed to A for life, and, after his death, to B; but if B shall then be dead, leaving a son, such son is to stand in the place of B. B takes a vested interest in the legacy, subject to be divested if he dies leaving a son in A's lifetime.

(iv) A sum of money is bequeathed to A and B, and if either should die during the life of C then to the survivor living at the death of C. A and B die before C. The gift over cannot take effect, but the representative of A takes one-half of the money, and the representative of B takes the other half.

(v) A bequeaths to B the interest of a fund for life, and directs the fund to be divided at her death equally among her three children, or such of them as shall be living at her death. All the children of B die in B's lifetime. The bequest over cannot take effect, but the interests of the children pass to their representatives.

Condition must be strictly fulfilled 132. An ulterior bequest of the kind contemplated by section 131 cannot take effect, unless the condition is strictly fulfilled.

*Illustrations.*

(i) A legacy is bequeathed to A, with a proviso that, if he marries without the consent of B, C and D, the legacy shall go to E. D dies. Even if A marries without the consent of B and C, the gift to E does not take effect.

(ii) A legacy is bequeathed to A, with a proviso that, if he marries without the consent of B, the legacy shall go to C. A marries with the consent of B. He afterwards becomes a widower and marries again without the consent of B. The bequest to C does not take effect.

(iii) A legacy is bequeathed to A, to be paid at 18, or marriage, with a proviso that, if A dies under 18 or marries without the consent of B, the legacy shall go to C. A marries under 18, without the consent of B. The bequest to C takes effect.

Original bequest not affected by invalidity of second. 133. If the ulterior bequest be not valid, the original bequest is not affected by it.

*Illustrations.*

(i) An estate is bequeathed to A for his life with condition superadded that, if he shall not on a given day walk 100 miles in an hour, the estate shall go to

B. The condition being void. A retains his estate as if no condition had been inserted in the will.

(ii) An estate is bequeathed to A for her life and, if she do not desert her husband, to B. A is entitled to the estate during her life as if no condition had been inserted in the will.

(iii) An estate is bequeathed to A for life, and, if he marries, to the eldest son of B for life. B, at the date of the testator's death, had not had a son. The bequest over is void under section 105, and A is entitled to the estate during his life.

Bequest conditioned that it shall cease to have effect in case a specified uncertain event shall happen, or not happen,

134. A bequest may be made with the condition superadded that it shall cease to have effect in case a specified uncertain event shall happen, or in case a specified uncertain event shall not happen.

#### *Illustrations.*

(i) An estate is bequeathed to A for his life, with a proviso that, in case he shall cut down a certain wood, the bequest shall cease to have any effect. A cuts down the wood. He loses his life-interest in the estate.

(ii) An estate is bequeathed to A, provided that, if he marries under the age of 25 without the consent of the executors named in the will, the estate shall cease to belong to him. A marries under 25 without the consent of the executors. The estate ceases to belong to him.

(iii) An estate is bequeathed to A, provided that, if he shall not go to England within three years after the testator's death, his interest in the estate shall cease. A does not go to England within the time prescribed. His interest in the estate ceases.

(iv) An estate is bequeathed to A, with a proviso that if she becomes a nun, she shall cease to have any interest in the estate. A becomes a nun. She loses her interest under the will.

(v) A fund is bequeathed to A for life, and, after his death, to B, if B shall be then living, with a proviso that, if B shall become a nun the bequest to her shall cease to have any effect. B becomes a nun in the life-time of A. She thereby loses her contingent interest in the fund.

Such condition must not be invalid under section 120.

135. In order that a condition that a bequest shall cease to have effect may be valid, it is necessary that the event to which it relates be one which could legally constitute the condition of a bequest as contemplated by section 120.

Result of legatee rendering impossible or indefinitely postponing act for which no time specified, and on non-performance of which subject-matter to go over.

136. Where a bequest is made with a condition superadded that, unless the legatee shall perform a certain act, the subject-matter of the bequest shall go to another person, or the bequest shall cease to have effect but no time is specified for the performance of the act; if the legatee takes any step which renders impossible or indefinitely postpones the performance of the act required, the legacy shall go as if the legatee had died without performing such act.

*Illustrations.*

(i) A bequest is made to A, with a proviso that, unless he enters the Army, the legacy shall go over to B. A takes Holy Orders, and thereby renders it impossible that he should fulfil the condition. B is entitled to receive the legacy.

(ii) A bequest is made to A, with a proviso that it shall cease to have any effect if he does not marry B's daughter. A marries a stranger and thereby indefinitely postpones the fulfilment of the conditions. The bequest ceases to have effect.

Performance of condition, precedent or subsequent, within specified time. Further time in case of fraud.

137. Where the will requires an act to be performed by the legatee within a specified time, either as a condition to be fulfilled before the legacy is enjoyed, or as a condition upon the non-fulfilment of which the subject-matter of the bequest is to go over to another person or the bequest is to cease to have effect, the act must be performed within the time specified, unless the performance of it be prevented by fraud, in which case such further time shall be allowed as shall be requisite to make up for the delay caused by such fraud.

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## CHAPTER XII.

### OF BEQUESTS WITH DIRECTIONS AS TO APPLICATION OR ENJOYMENT.\*

138. Where a fund is bequeathed absolutely to or for the benefit of any person, but the will contains a direction that it shall be applied or enjoyed in a particular manner, the legatee shall be entitled to receive the fund as if the will had contained no such direction.

Direction that fund be employed in particular manner following absolute bequest of same to or for benefit of any person.

*Illustration.*

A sum of money is bequeathed towards purchasing a country residence for A, or to purchase an annuity for A, or to place A in any business. A chooses to receive the legacy in money. He is entitled to do so.

139. Where a testator absolutely bequeaths a fund, so as to sever it from his own estate, but directs that the mode of enjoyment of it by the legatee shall be restricted so as to secure a specified benefit for the legatee; if that benefit cannot be obtained for the legatee, the fund belongs to him as if the will had contained no such direction.

Direction that mode of enjoyment of absolute bequest is to be restricted, to secure specified benefit for legatee.

*Illustrations.*

(1) A bequeaths the residue of his property to be divided equally among his daughters, and directs that the shares of the daughters shall be settled upon themselves respectively for life and be paid to their children after their death. All the daughters die unmarried. The representatives of each daughter are entitled to her share of the residue.

(ii) A Directs his trustees to raise a sum of money for his daughter, and he then directs that they shall invest the fund and pay the income arising from it to her during her life, and divide the principal among her children after her death. The daughter dies without having ever had a child. Her representatives are entitled to the fund.

140. Where a testator does not absolutely bequeath a fund, so as to sever it from his own estate, but gives it for certain purposes, and part of those purposes cannot be fulfilled, the fund, or so much of it as has not been exhausted upon the objects contemplated by the will, remains a part of the estate of the testator.

Bequest of fund for certain purposes, some of which cannot be fulfilled.

#### *Illustrations.*

(i) A directs that his trustees shall invest a sum of money in a particular way, and shall pay the interest to his son for life, and at his death shall divide the principal among his children. The son dies without having ever had a child. The fund, after the son's death, belongs to the estate of the testator.

(ii) A bequeaths the residue of his estate, to be divided equally among his daughters with a direction that they are to have the interest only during their lives, and that at their decease the fund shall go to their children. The daughters have no children. The fund belongs to the estate of the testator.

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## CHAPTER XIII.

### OF BEQUESTS TO AN EXECUTOR.

141. If a legacy is bequeathed to a person who is named an executor of the will, he shall not take the legacy unless he proves the will or otherwise manifests an intention to act as executor.

Legatee named as executor cannot take unless he shows intention to act as executor.

#### *Illustration.*

A legacy is given to A, who is named an executor. A orders the funeral according to the directions contained in the will, and dies a few days after the testator, without having proved the will. A has manifested an intention to act as executor.

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## CHAPTER XIV.

### OF SPECIFIC LEGACIES.

142. Where a testator bequeaths to any person a specified part of his property, which is distinguished from all other parts of his property, the legacy is said to be specific :

Specific legacy defined.

*Illustrations.*

(i) A bequeaths to B—

“ the diamond ring presented to me by C ”.

“ my gold chain ” :

“ a certain bale of wool ” :

“ a certain piece of cloth ” :

“ all my household goods which shall be in or about my dwelling house in M. Street, in Calcutta, at time of my death ” :

“ the sum of 1,000 rupees in a certain chest ”:

“ the debt which B owes me ”:

“ all my bills, bonds and securities belonging to me lying in my lodgings in Calcutta ”:

“ all my furniture in my house in Calcutta ”:

“ all my goods on board a certain ship now lying in the river Hughli ”:

“ 2,000 rupees which I have in the hands of C ”:

“ the money due to me on the bond of D ”:

“ my mortgage on the Rampur factory ”:

“ one-half of the money owing to me on my mortgage of Rampur factory ”:

“ 1,000 rupees, being part of a debt due to me from C ”:

“ my capital stock of 1,000*l.* in East India Stock ”:

“ my promissory notes of the Government of India for 10,000 rupees in their 4 per cent. loan ”:

“ all such sums of money as my executors may, after my death, receive in respect of the debt due to me from the insolvent firm of D and Company ”:

“ all the wine which I may have in my cellar at the time of my death ”:

“ such of my horses as B may select ”:

“ all my shares in the Imperial Bank of India ”:

“ all my shares in the Imperial Bank of India which I may possess at the time of my death ”:

“ all the money which I have in the 5½ per cent. loan of the Government of India ”:

“ all the Government securities I shall be entitled to at the time of my decease.”

Each of these legacies is specific.

(ii) A, having Government promissory notes for 10,000 rupees, bequeaths to his executor a “ Government promissory notes for 10,000 rupees in trust to sell ” for the benefit of B. The legacy is specific.

(iii) A having property at Benares, and also in other places bequeaths to B all his property at Benares. The legacy is specific.



(iv) A bequeaths to B—

his house in Calcutta :

his zamindari of Rampur :

his taluq of Ramnagar :

his lease of the indigo-factory of Salkya :

an annuity of 500 rupees out of the rents of his zamindari of W.

A directs his zamindari of X to be sold, and the proceeds to be invested for the benefit of B.

Each of these bequests is specific.

(v) A by his will charges his zamindari of Y with an annuity of 1,000 rupees to C during his life, and subject to this charge he bequeaths the zamindari to D. Each of these bequests is specific.

(vi) A bequeaths a sum of money—

to buy a house in Calcutta for B :

to buy an estate in jila Faridpur for B :

to buy a diamond ring for B :

to buy a horse for B :

to be invested in shares in the Imperial Bank of India for B :

to be invested in Government securities for B.

A bequeaths to B—

“a dimond ring”:

“a horse”:

“10,000 rupees worth of Government securities”:

“an annuity of 500 rupees”:

“2,000 rupees to be paid in cash”:

“so much money as will produce 5,000 rupees four per cent. Government securities.”

These bequests are not specific.

(vii) A, having property in England and property in India, bequeaths a legacy to B, and directs that it shall be paid out the property which he may leave in India. He also bequeaths a legacy to C and directs that it shall be paid out of property which he may leave in England. No one of these legacies is specific.

Bequest of certain sum where stocks, etc., in which invested are described.

143. Where a certain sum is bequeathed, the legacy is not specific merely because the stock, funds or securities in which it is invested are described in the will.

#### *Illustration.*

A bequeaths to B—

“10,000 rupees of my funded property”:

“10,000 rupees of my property now invested in shares of the East Indian Railway Company”:

“10,000 rupees, at present secured by mortgage of Rampur factory.”

No one of these legacies is specific.

144. Where a bequest is made in general terms of a certain amount of any kind or stock, the legacy is not specific merely because the testator was, at the date of his will, possessed of stock of the specified kind, to an equal or greater amount than the amount bequeathed.

*Illustration.*

A bequeaths to B 5,000 rupees five per cent. Government securities. A had at the date of the will five per cent. Government securities for 5,000 rupees. The legacy is not specific.

145. A money legacy is not specific merely because the will directs its payment to be postponed until some part of the property of the testator has been reduced to a certain form, or remitted to a certain place.

*Illustration.*

A bequeaths to B 10,000 rupees and directs that this legacy shall be paid as soon as A's property in India shall be realised in England. The legacy is not specific.

146. Where a will contains a bequest of the residue of the testator's property along with an enumeration of some items of property not previously bequeathed, the articles enumerated shall not be deemed to be specifically bequeathed.

147. Where property is specifically bequeathed to two or more persons in succession, it shall be retained in the form in which the testator left it, although it may be of such a nature that its value is continually decreasing.

*Illustrations.*

(i) A, having lease of a house for a term of years, fifteen of which were unexpired at the time of his death, has bequeathed the lease to B for his life, and after B's death to C. B. is to enjoy the property as A left it, although, if B lives for fifteen years, C can take nothing under the bequest.

(ii) A, having an annuity during the life of B, bequeaths it to C, for his life, and, after C's death, to D. C is to enjoy the annuity as A left it, although, if B dies before D, D can take nothing under the bequest.

148. Where property comprised in a bequest to two or more persons in succession is not specifically bequeathed, it shall, in the absence of any direction to the contrary, be sold, and the proceeds of the sale shall be invested in such securities as the High Court may by any general rule authorise or direct, and the fund thus constituted shall be enjoyed by the successive legatees according to the terms of the will.

*Illustration.*

A having a lease for a term of years, bequeaths all his property to B for life, and, after B's death, to C. The lease must be sold, the proceeds invested as stated in this section and the annual income arising from the fund is to be paid to B for life. At B's death the capital of the fund is to be paid to C.

Where deficiency of assets to pay legacies, specific legacy not to abate with general legacies.

149. If there is a deficiency of assets: to pay legacies, a specific legacy is not liable to abate with the general legacies.

## CHAPTER XV.

## OF DEMONSTRATIVE LEGACIES.

150. Where a testator bequeaths a certain sum of money, or a certain quantity of any other commodity, and refers to a particular fund or stock so as to constitute the same the primary fund or stock out of which payment to be made, the legacy is said to be demonstrative.

*Explanation.*—The distinction between a specific legacy and a demonstrative legacy consists in this, that—

where specified property is given to the legatee, the legacy is specific ;

where the legacy is directed to be paid out of specified property, it is demonstrative,

*Illustrations.*

(i) A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The legacy to B is specific, the legacy to C is demonstrative.

(ii) A bequeaths to B—

“ten bushels of the corn which shall grow in my field of Green Acre”:

“80 chests of the indigo which shall be made at my factory of Ram-pur”:

“10,000 rupees out of my five per cent. promissory notes of the Government of India”:

an annuity of 500 rupees “from my funded property”:

“1,000 rupees out of the sum of 2,000 rupees due to me by C”:

an annuity, and directs it to be paid “out of the rents arising from my taluk of Ramnagar”:

(iii) A bequeaths to B—

“10,000 rupees out of my estate at Ramnagar,” or charges it on his estate at Ramnagar :

“10,000 rupees, being my share of the capital embarked in a certain business.”

Each of these bequests is demonstrative.

151. Where a portion of a fund is specifically bequeathed and a legacy is directed to be paid out of the same fund, the portion specifically bequeathed shall first be paid to the legatee, and the demonstrative legacy shall be paid out of the residue of the fund and, so far as the residue shall be deficient, out of the general assets of the testator.

*Illustration.*

A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The debt due to A from W is only 1,500 rupees; of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

## CHAPTER XVI.

### OF ADEMPMENT OF LEGACIES

152. If anything which has been specifically bequeathed does not belong to the testator at the time of his death, or has been converted into property of a different kind, the legacy is adeemed; that is, it cannot take effect, by reason of the subject-matter having been withdrawn from the operation of the will.

*Illustrations.*

(i) A bequeaths to B—

“ the diamond ring presented to me by C ”.

“ my gold chain ”:

“ a certain bale of wool ”:

“ a certain piece of cloth ”:

“ all my household goods which shall be in or about my dwelling house in M Street in Calcutta, at the time of my death.”

in his life time,—

sells or gives away the ring :

converts the chain into a cup :

converts the wool into cloth :

makes the cloth into a garment :

takes another house into which he removes all his goods.

Each of these legacies is adeemed.

(ii) A bequeaths to B—

“ the sum of 1,000 rupees in a certain chest ”:

all the horses in my stable.”

At the death of A, no money is found in the chest, and no horses in the stable. The legacies are adeemed.

(iii) A bequeaths to B certain bales of goods. A takes the goods with him on a voyage. The ship and goods are lost at sea, and A is drowned. The legacy is adeemed.

153. A demonstrative legacy is not adeemed by reason that the property on which it is charged by the will does not exist at the time of the death of the testator, or has been converted into property of a different kind, but it shall in such case be paid out of the general assets of the testator.

Ademption of specific bequest of right to receive something from third party.

154. Where the thing specifically bequeathed is the right to receive something of value from a third party, and the testator himself receives it, the bequest is adeemed.

#### *Illustrations.*

(i) A bequeaths to B—

“ the debt which C owes me ”

“ 2,000 rupees which I have in the hands of D ”;

“ the money due to me on the bond of E ”;

“ my mortgage on the Rampur factory.”

All these debts are extinguished in A's lifetime, some with and some without his consent. All the legacies are adeemed.

(ii) A bequeaths to B his interest in certain policies of life assurance. A in his lifetime receives the amount of the policies. The legacy is adeemed.

Ademption *pro tanto* by testator's receipt of part of entire thing specifically bequeathed.

155. The receipt by the testator of a part of an entire thing specifically bequeathed shall operate as an ademption of the legacy to the extent of the sum so received.

#### *Illustration.*

A bequeaths to B “ the debt due to me by C.” The debt amounts to 10,000 rupees. C pays to A 5,000 rupees the one-half of the debt. The legacy is revoked by ademption, so far as regards the 5,000 rupees received by A.

Ademption *pro tanto* by testator's receipt of portion of entire fund of which portion has been specifically bequeathed.

of the specific legacy.

156. If a portion of an entire fund or stock is specifically bequeathed, the receipt by the testator of a portion of the fund or stock shall operate as an ademption only to the extent of the amount so received; and the residue of the fund or stock shall be applicable to the discharge

#### *Illustration.*

A bequeaths to B one-half of the sum of 10,000 rupees due to him from W. A in his lifetime receives 6,000 rupees, part of the 1,000 rupees. The 4,000 rupees which are due from W to A at the time of his death belong to B under the specific bequest.

157. Where a portion of a fund is specifically bequeathed to one

Order of payment where portion of fund specifically bequeathed to one legatee, and legacy charged on same fund to another, and testator having received portion of that fund, remainder insufficient to pay both legacies.

legatee, and a legacy charged on the same fund is bequeathed to another legatee, then, if the testator receives a portion of that fund, and the remainder of the fund is insufficient to pay both the specific and the demonstrative legacy, the specific legacy shall be paid first, and the residue (if any) of the fund shall be applied so far as it will extend in payment of the demonstrative legacy, and the rest of the demonstrative legacy shall be paid out of the general assets of the testator.

*Illustration.*

A bequeaths to B 1,000 rupees, part of the debt of 2,000 rupees due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. A afterwards receives 5,000 rupees, part of that debt, and dies leaving only 1,500 rupees due to him from W. Of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

Ademption where stock, specifically bequeathed, does not exist at testator's death.

158. Where stock which has been specifically bequeathed does not exist at the testator's death, the legacy is adeemed.

*Illustration.*

A bequeaths to B—

“ my capital stock of 1,000*l.* in East India Stock ”:

“ my promissory notes of the Government of India for 10,000 rupees in their 4 per cent. loan.”

A sells the stock and the notes. The legacies are adeemed.

Ademption *pro tanto* where stock, specifically bequeathed, exists in part only at testator's death.

159. Where stock which has been specifically bequeathed exists only in part at the testator's death, the legacy is adeemed so far as regards that part of the stock which has ceased to exist.

*Illustration*

A bequeaths to B his 10,000 rupees in the 5½ per cent. loan of the Government of India. A sells one-half of his 10,000 rupees in the loan in question. One-half of the legacy is adeemed.

Non-ademption of specific bequest of goods described as connected with certain place, by reason of removal.

160. A specific bequest of goods under a description connecting them with a certain place is not adeemed by reason that they have been removed from such place from any temporary cause, or by fraud, or without the knowledge or sanction of the testator.

•  
*Illustrations.*

(i) A bequeaths to B "all my household goods which shall be in or about my dwelling house in Calcutta at the time of my death." The goods are removed from the house to save them from fire. A dies before they are brought back.

(ii) A bequeaths to B "all my household goods which shall be in or about my dwelling house in Calcutta at the time of my death." During A's absence upon a journey, the whole of the goods are removed from the house. A dies without having sanctioned their removal.

Neither of these legacies is adeemed.

When removal of thing bequeathed does not constitute ademption.

161. The removal of the thing bequeathed from the place in which it is stated in the will to be situated does not constitute an ademption, where the place is only referred to in order to complete the description of what the testator

meant to bequeath.

*Illustrations.*

(i) A bequeaths to B "all the bills, bonds and other securities for money belonging to me now lying in my lodgings in Calcutta." At the time of his death, these effects had been removed from his lodgings in Calcutta.

(ii) A bequeaths to B all his furniture then in his house in Calcutta. The testator has a house at Calcutta and another at Chinsurah, in which he lives alternately, being possessed of one set of furniture only which he removes with himself to each house. At the time of his death the furniture is in the house at Chinsurah.

(iii) A bequeaths to B all his goods on board a certain ship then lying in the river Hughli. The goods are removed by A's directions to a warehouse, in which they remain at the time of A's death,

No one of these legacies is revoked by ademption.

When thing bequeathed is a valuable to be received by testator from third person; and testator himself, or his representative, receives it.

162. Where the thing bequeathed is not the right to receive something of value from a third person, but the money or other commodity which may be received from the third person by the testator himself or by his representatives, the receipt of such sum of money or other commodity by the testator shall not constitute an ademption;

but if he mixes it up with the general mass of his property, the legacy is adeemed.

*Illustration.*

A bequeaths to B whatever sum may be received from his claim on C. A receives the whole of his claim on C, and sets it apart from the general mass of his property. The legacy is not adeemed.

Change by operation of law of subject of specific bequest between date of will and testator's death.

163. Where a thing specifically bequeathed undergoes a change between the date of the will and the testator's death, and the change takes place by operation of law, or in the course of execution of the provisions of any legal instru-

ment under which the thing bequeathed was held, the legacy is not adeemed by reason of such change.

*Illustrations.*

(i) A bequeaths to B "all the money which I have in the 5½ per cent. loan of the Government of India." The securities for the 5½ per cent. loan are converted during A's lifetime into 5 per cent. stock.

(ii) A bequeaths to B the sum of 2,000*l.* invested in Consols in the names of trustees for A. The sum of 2,000*l.* is transferred by the trustees into A's own name

(iii) A bequeaths to B the sum of 10,000 rupees in promissory notes of the Government of India which he has power under his marriage settlement to dispose of by will. Afterwards, in A's lifetime, the fund is converted into Consols by virtue of an authority contained in the settlement.

No one of these legacies has been adeemed.

164. Where a thing specifically bequeathed undergoes a change between the date of the will and the testator's death, and the change takes place without the knowledge or sanction of the testator, the legacy is not adeemed.

*Illustration.*

A bequeaths to B "all my 3 per cent Consols. The Consols are, without A's knowledge, sold by his agent, and the proceeds converted into East India Stock. This legacy is not adeemed.

165. Where stock which has been specifically bequeathed is lent to a third party on condition that it shall be replaced, and it is replaced accordingly, the legacy is not adeemed.

166. Where stock specifically bequeathed is sold, and an equal quantity of the same stock is afterwards purchased and belongs to the testator at his death, the legacy is not adeemed.

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## CHAPTER XVII.

### OF THE PAYMENT OF LIABILITIES IN RESPECT OF THE SUBJECT OF A BEQUEST.

167. (1) Where property specifically bequeathed is subject at the death of the testator to any pledge, lien or incumbrance created by the testator himself or by any person under whom he claims, then, unless a contrary intention appears by the will, the legatee, if he accepts the bequest, shall accept it subject to such pledge or incumbrance, and shall (as between himself and the testator's estate) be liable to make good the amount of such pledge or incumbrance.

Non-liability of executor to exonerate specific legatees.



(2) A contrary intention shall not be inferred from any direction which the will may contain for the payment of the testator's debts generally.

*Explanation.*—A periodical payment in the nature of land-revenue or in the nature of rent is not such an incumbrance as is contemplated by this section.

#### *Illustrations.*

(i) A bequeaths to B the diamond ring given him by C. At A's death the ring is held in pawn by D, to whom it has been pledged by A. It is the duty of A's executors, if the state of the testator's assets will allow them, to allow B to redeem the ring.

(ii) A bequeaths to B a zamindari which at A's death is subject to a mortgage for 10,000 rupees; and the whole of the principal sum, together with interest to the amount of 1,000 rupees, is due at A's death. B, if he accepts the bequest, accepts it subject to his charge, and his liable, as between himself and A's estate, to pay the sum of 11,000 rupees thus due.

Completion of testator's title to things bequeathed to be at cost of his estate.

168. Where anything is to be done to complete the testator's title to the thing bequeathed, it is to be done at the cost of the testator's estate.

#### *Illustrations*

(i) A, having contracted in general terms for the purchase of a piece of land at a certain price, bequeaths to B, and dies before he has paid the purchase money. The purchase-money must be made good out of A's assets.

(ii) A, having contracted for the purchase of a piece of land for a certain sum of money, one half of which is to be paid down and the other half secured by mortgage of the land, bequeaths it to B, and dies before he has paid or secured any part of the purchase money. One-half of the purchase-money must be paid out of A's assets.

169. Where there is a bequest of any interest in immoveable property in respect of which payment in the nature of land-revenue or in the nature of rent has to be made periodically, the estate of the testator shall (as between such estate and the legatee) make good such payments or a proportion of them, as the case may be, up to the day of his death.

Exoneration of legatee's immoveable property for which land-revenue or not payable periodically.

#### *Illustration.*

A bequeaths to B a house, in respect of which 365 rupees are payable annually by way of rent. A pays his rent at the usual time, and dies 25 days after. A's estate will make good 25 rupees in respect of the rent.

170. In the absence of any direction in the will, where there is a specific bequest of stock in a joint stock company, if any call or other payment is due from the testator at the time of his death in respect of the stock, such call or payment shall, as between

Exoneration of specific legatee's stock in joint stock company.

the testator's estate and the legatee, be borne by the estate ; but, if any call or other payment becomes due in respect of such stock after the testator's death, the same shall, as between the testator's estate and the legatee, be borne by the legatee, if he accepts the bequest.

### *Illustrations.*

(i) A bequeaths to B his shares in a certain railway. At A's death there was due from him the sum of 100 rupees in respect of each share, being the amount of a call which had been duly made, and the sum of five rupees in respect of each share, being the amount of interest which had accrued due in respect of the call. These payments must be borne by A's estate.

(ii) A has agreed to take 50 shares in an intended joint stock company, and has contracted to pay up 100 rupees in respect of each share, which sum must be paid before his title to the shares can be completed. A bequeaths these shares to B. The estate of A must make good the payments which were necessary to complete A's title.

(iii) A bequeaths to B his shares in a certain railway. B accepts the legacy. After A's death, a call is made in respect of the shares. B must pay the call.

(iv) A bequeaths to B his shares in a joint stock company, B accepts the bequest. Afterwards the affairs of the company are wound up, and each shareholder is called upon for contribution. The amount of the contribution must be borne by the legatee.

(v) A is the owner of ten shares in a railway company. At a meeting held during his lifetime a call is made of fifty rupees per share, payable by three instalments. A bequeaths his shares to B, and dies between the day fixed for the payment of the first and the day fixed for the payment of the second instalment, and without having paid the first instalment. A's estate must pay the first instalment, and B, if he accepts the legacy, must pay the remaining instalments.

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## CHAPTER XVIII

### OF BEQUESTS OF THINGS DESCRIBED IN GENERAL TERMS.

171. If there is a bequest of something described in general terms, the executor must purchase for the legatee what may reasonably be considered to answer the description.

### *Illustrations.*

(i) A bequeaths to B a pair of carriage-horses or a diamond ring. Executor must provide the legatee with such articles if the state the assets will allow it.

(ii) A bequeaths to B "my pair of carriage-horses." A had no carriage-horses at the time of his death. The legacy fails.

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## CHAPTER XIX.

OF BEQUEST OF THE INTEREST OR PRODUCE OF A  
FUND.

172. Where the interest or produce of a fund is bequeathed to any person, and the will affords no indication of an intention that the enjoyment of the bequest should be of limited duration, the principal as well as the interest shall belong to the legatee.

*Illustrations.*

(i) A bequeaths to B the interest of his 5 per cent. promissory notes of the Government of India. There is no other clause in the will affecting those securities. B is entitled to A's 5 per cent. promissory notes of the Government of India.

(ii) A bequeaths the interest of his 5½ per cent. promissory notes of the Government of India to B for his life, and after his death to C. B is entitled to the interest of the notes during his life, and C is entitled to the notes upon B's death.

(iii) A bequeaths to B the rents of his lands at X. B is entitled to the lands.

## CHAPTER XX.

## OF BEQUESTS OF ANNUITIES,

173. Where an annuity is created by will, the legatee is entitled to receive it for his life only, unless a contrary intention appears by the will, notwithstanding that the annuity is directed to be paid out of the property generally, or that a sum of money is bequeathed to be invested in the purchase of it.

*Illustrations.*

(i) A bequeaths to B 500 rupees a year. B is entitled during his life to receive the annual sum of 500 rupees.

(ii) A bequeaths to B the sum of 500 rupees monthly. B is entitled during his life to receive the sum of 500 rupees every month.

(iii) A bequeaths an annuity of 500 rupees to B for life, and on B's death to C. B is entitled to an annuity of 500 rupees during his life. C, if he survives B, is entitled to an annuity of 500 rupees from B's death until his own death.

174. Where the will directs that an annuity shall be provided for any person out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of any annuity for any person, on the testator's death the legacy vests in interest in the legatee, and he is entitled at his option to have an annuity purchased for him or to receive the money appropriated for that purpose by the will.

*Illustrations.*

(i) A by his will directs that his executors shall, out of his property, purchase an annuity of 1,000 rupees for B. B is entitled at his option to have an annuity of 1,000 rupees for his life purchased for him, or to receive such a sum as will be sufficient for the purchase of such an annuity.

(ii) A bequeaths a fund to B for his life, and directs that after B's death, it shall be laid out in the purchase of an annuity for C. B and C survive the testator. C dies in B's lifetime. On B's death the fund belongs to the representative of C.

175. Where an annuity is bequeathed, but the assets of the testator are not sufficient to pay all the legacies given by the will, the annuity shall abate in the same proportion as the other pecuniary legacies given by the will.

176. Where there is a gift of an annuity and a residuary gift, the whole of the annuity is to be satisfied before any part of the residue is paid to the residuary legatee, and, if necessary, the capital of the testator's estate shall be applied for that purpose.

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## CHAPTER XXI.

### OF LEGACIES TO CREDITORS AND PORTIONERS.

177. Where a debtor bequeaths a legacy to his creditor, and it does not appear from the will that the legacy is meant as a satisfaction of the debt, the creditor shall be entitled to the legacy as well as to the amount of the debt.

178. Where a parent, who is under obligation by contract to provide a portion for a child, fails to do so, and afterwards bequeaths a legacy to the child, and does not intimate by his will that the legacy is meant as a satisfaction of the portion, the child shall be entitled to receive the legacy as well as the portion.

*Illustration.*

A, by articles entered into in contemplation of his marriage with B covenanted that he would pay to each of the daughters of the intended marriage a portion of 20,000 rupees on her marriage. This covenant having been broken. A bequeaths 20,000 rupees to each of the married daughters of himself and B. The legatees are entitled to the benefit of this bequest in addition to their portions.

No ademption by subsequent provision for legatee.

179. No bequest shall be wholly or partially adeemed by a subsequent provision made by settlement or otherwise for the legatee.

*Illustrations.*

(i) A bequeaths 20,000 rupees to his son B. He afterwards gives to B the sum of 20,000 rupees. The legacy is not thereby adeemed.

(ii) A bequeaths 40,000 rupees to B, his orphan niece whom he had brought up from her infancy. Afterwards, on the occasion of B's marriage, A settles upon her the sum of 30,000 rupees. The legacy is not thereby diminished.

## CHAPTER XXII.

## OF ELECTION.

180. Where a person, by his will, professes to dispose of something which he has no right to dispose of, the person to whom the thing belongs shall elect either to confirm such disposition or to dissent from it, and in the latter case, he shall give up any benefits which may have been provided for him by the will.

Circumstances in which election takes place.

181. An interest relinquished in the circumstances stated in section 180 shall devolve as if it had not been disposed of by the will in favour of the legatee, subject, nevertheless, to the charge of making good to the disappointed legatee the amount or value of the gift attempted to be given to him by the will.

Devolution of interest relinquished by owner.

182. The provisions of sections 180 and 181 apply whether the testator does or does not believe that which he professes to dispose of by his will to be his own.

Testator's belief as to his ownership immaterial.

*Illustrations.*

(i) The farm of Sultanpur was the property of C. A bequeathed it to B, giving a legacy of 1,000 rupees to C. C has elected to retain his farm of Sultanpur, which is worth 800 rupees. C forfeits his legacy of 1,000 rupees, of which 800 rupees goes to B, and the remaining 200 rupees falls into the residuary bequest, or devolves according to the rules of intestate succession, as the case may be.

(ii) A bequeaths an estate to B in case B's elder brother (who is married and has children) shall leave no issue living at his death. A also bequeaths to C a jewel, which belongs to B. B must elect to give up the jewel or to lose the estate.

(iii) A bequeaths to B 1,000 rupees, and to C an estate which will, under a settlement, belong to B if his elder brother (who is married and has children) shall leave no issue living at his death. B must elect to give up the estate or to lose the legacy.

(iv) A, a person of the age of 18, domiciled in British India but owning real property in England, to which C is heir at law, bequeaths a legacy to C and, subject thereto, devises and bequeaths to B "all my property whatsoever and wheresoever," and dies under 21. The real property in England does not pass by the will. C may claim his legacy without giving up the real property in England.

Bequest for man's benefit how regarded for purpose of election. 183. A bequest for a person's benefit is, for the purpose of election, the same thing as a bequest made to himself.

*Illustration.*

The farm of Sultanpur Khurd being the property of B, A bequeathed it to C: and bequeathed another farm called Sultanpur Buzurg to his own executors with a direction that it should be sold and the proceeds applied in payment of B's debts. B must elect whether he will abide by the will, or keep his farm of Sultanpur Khurd in opposition to it.

Person deriving benefit indirectly not put to election. 184. A person taking no benefit directly under a will, but deriving a benefit under it indirectly, is not put to his election.

*Illustration.*

The lands of Sultanpur are settled upon C for life, and after his death upon D, his only child. A bequeaths the lands of Sultanpur to B, and 1,000 rupees to C. C dies intestate shortly after the testator, and without having made any election. D. takes out administration to C, and as administrator elects on behalf of C's estate to take under the will. In that capacity he receives the legacy of 1,000 rupees and accounts to B for the rents of the lands of Sultanpur which accrued after the death of the testator and before the death of C. In his individual character he retains the lands of Sultanpur in opposition to the will.

Person taking in individual capacity under will may in other character elect to take in opposition. 185. A person who in his individual capacity takes a benefit under a will may, in another character, elect to take in opposition to the will.

*Illustration.*

The estate of Sultanpur is settled upon A for life, and after his death, upon B. A leaves the estate of Sultanpur to D, and 2,000 rupees to B, and 1,000 rupees to C, who is B's only child. B dies intestate, shortly after the testator, without having made an election. C takes out administration to B, and as administrator elects to keep the estate of Sultanpur in opposition to the will, and to relinquish the legacy of 2,000 rupees. C may do this, and yet claim his legacy of 1,000 rupees under the will.

186. Notwithstanding anything contained in sections 180 to 185, where a particular gift is expressed in the will to be in lieu of something belonging to the legatee which is also in terms disposed of by the will, then, if the legatee claims that thing, he must relinquish the particular gift, but he is not bound to relinquish any other benefit given to him by the will.

*Illustration.*

Under A's marriage settlement his wife is entitled, if she survives him, to the enjoyment of the estate of Sultanpur during her life. A by his will bequeaths to his wife an annuity of 200 rupees during her life, in lieu of her interest in the estate of Sultanpur, which estate he bequeaths to his son. He

also gives his wife a legacy of 1,000 rupees. The widow elects to take what she is entitled to under the settlement. She is bound to relinquish the annuity but not the legacy of 1,000 rupees.

When acceptance of benefit given by will constitutes election to take under will.

187. Acceptance of a benefit given by a will constitutes an election by the legatee to take under the will, if he had knowledge of his right to elect and of those circumstances which would influence the judgement of a reasonable man in making an election, or if he waives inquiry into the circumstances.

### *Illustrations*

(i) A is owner of an estate called Sultanpur Khurd, and has a life interest in another estate called Sultanpur Buzurg to which upon his death his son B will be absolutely entitled. The will of A gives the estate of Sultanpur Khurd to B, and the estate of Sultanpur Buzurg to C. B, in ignorance of his own right to the estate of Sultanpur Buzurg, allows C to take possession of it, and enters into possession of the estate of Sultanpur Khurd. B has not confirmed the bequest of Sultanpur Buzurg to C.

(ii) B, the eldest son of A, is the possessor of an estate called Sultanpur. A bequeaths Sultanpur to C, and to B the residue of A's property. B having been informed by A's executors that the residue will amount to 5 000 rupees, allows C to take possession of Sultanpur. He afterwards discovers that the residue does not amount to more than 500 rupees. B has not confirmed the bequest of the estate of Sultanpur to C.

Circumstances in which knowledge or waiver is presumed or inferred.

188. (1) Such knowledge or waiver of inquiry shall, in the absence of evidence to the contrary, be presumed if the legatee has enjoyed for two years the benefits provided for him by the will without doing any act to express dissent

(2) Such knowledge or waiver of inquiry may be inferred from any act of the legatee which renders it impossible to place the persons interested in the subject matter of the bequest in the same condition as if such act had not been done.

### *Illustration.*

A bequeaths to B an estate to which C is entitled, and to C a coal-mine. C takes possession of the mine and exhausts it. He has thereby confirmed the bequest of the estate to B.

189. If the legatee does not, within one year after the death of the

When testator's representatives may call upon legatee to elect.

testator, signify to the testator's representatives his intention to confirm or to dissent from the will, the representatives shall, upon the expiration of that period, require him to make his election; and, if he does not comply with such requisition within a reasonable time after he has received it, he shall be deemed, to have elected to confirm the will.

Postponement of election in case of disability.

190. In case of disability the election shall be postponed until the disability ceases, or until the election is made by some competent

## CHAPTER XXIII.

## OF GIFTS IN CONTEMPLATION OF DEATH.

Property transferable by gift made in contemplation of death. 191. (1) A man may dispose, by gift made in contemplation of death, of any moveable property which he could dispose of by will.

(2) A gift is said to be made in contemplation of death where a man, who is ill and expects to die shortly of his illness, delivers to another the possession of any moveable property to keep as a gift in case the donor shall die of that illness.

(3) Such a gift may be resumed by the giver ; and shall not take effect if he recovers from the illness during which it was made ; nor if he survives the person to whom it was made.

*Illustrations.*

(i) A, being ill, and in expectation of death, delivers to B, to be retained by him in case of A's death,—

a watch :  
 a bond granted by C to A :  
 a bank-note ;  
 a promissory note of the Government of India endorsed in blank :  
 a bill of exchange endorsed in blank :  
 certain mortgage-deeds.

A dies of the illness during which he delivered these articles.

B is entitled to—

the watch :  
 the debt secured by C's bond :  
 the bank-note ;  
 the promissory note of the Government of India :  
 the bill of exchange :  
 the money secured by the mortgage-deeds.

(ii) A, being ill, and in expectation of death, delivers to B the key of a trunk or the key of a warehouse in which goods of bulk belonging to A are deposited, with the intention of giving him the control over the contents of the trunk, or over the deposited goods, and desires him to keep them in case of A's death. A dies of the illness during which he delivered these articles. B is entitled to the trunk and its contents or to A's goods of bulk in the warehouse.

(iii) A, being ill, and in expectation of death, puts aside certain articles in separate parcels and marks upon the parcels respectively the names of B and C. The parcels are not delivered during the life of A. A dies of the illness during which he set aside the parcels. B and C are not entitled to the contents of the parcels.



## PART VII

## PROTECTION OF PROPERTY OF DECEASED.

192. (1) If any person dies leaving property, moveable or immoveable any person claiming a right by succession thereto, or to any portion thereof, may make application to the District Judge of the district where any part of the property is found or situate for relief, either after actual possession has been taken by another person, or when forcible means of seizing possession are apprehended.

Person claiming right by succession to property of deceased may apply for relief against wrongful possession.

(2) Any agent, relative or near friend, or the Court of Wards in cases within their cognizance, may, in the event of any minor, or any disqualified or absent person being entitled by succession to such property as aforesaid, make the like application for relief.

193. The District Judge to whom such application is made shall, in the first place, examine the applicant on oath, and may make such further inquiry, if any, as he thinks necessary as to whether there is sufficient ground for believing that the party in possession or taking forcible means for seizing possession has no lawful title, and that the applicant, or the person on whose behalf he applies, is really entitled and is likely to be materially prejudiced if left to the ordinary remedy of a suit, and that the application is made *bona fide*.

194. If the District Judge is satisfied that there is sufficient ground for believing as aforesaid but not otherwise, he shall summon the party complained of, and give notice of vacant or disturbed possession by publication, and, after the expiration of a reasonable time, shall determine summarily the right to possession (subject to a suit as hereinafter provided) and shall deliver possession accordingly :

Provided that the Judge shall have the power to appoint an officer who shall take an inventory of effects, and seal or otherwise secure the same, upon being applied to for the purpose, without delay, whether he shall have concluded the inquiry necessary for summoning the party complained of or not.

195. If it further appears upon such inquiry as aforesaid that danger is to be apprehended of the misappropriation or waste of the property before the summary proceeding can be determined, and that the delay in obtaining security from the party in possession or the insufficiency thereof is likely to expose the party out of possession to considerable risk, provided he is the lawful owner, the District Judge may appoint one or more curators whose authority shall continue according to the terms of his or their respective appointments, and in no case beyond the determination of the summary proceeding and the confirmation or delivery of possession in consequence thereof :

Appointment of curator pending determination of proceeding.

Provided that, in the case of land, that Judge may delegate to the Collector, or to any officer subordinate to the Collector, the powers of a curator :

Provided, further, that every appointment of a curator in respect of any property shall be duly published.

196. The District Judge may authorise the curator to take possession of the property either generally, or until security is given by the party in possession, or until inventories of the property have been made, or for any other purpose necessary for securing the property from misappropriation or waste by the party in possession :

Provided that it shall be in the discretion of the Judge to allow the party in possession to continue in such possession on giving security or not, and any continuance in possession shall be subject to such orders as as the Judge may issue touching inventories, or the securing of deeds or other effects.

Prohibition of exercise of certain powers by curators. Payment of debts, etc., to curator.

197. (1) Where a certificate has been granted under Part X or under the Succession Certificate Act, 1889,\* or a grant of probate or letters of administration has been made, a curator appointed under this Part shall not exercise any authority lawfully belonging to the holder of the certificate or to the executor or administrator.

(2) All persons who have paid debts or rents to a curator authorised by a Court to receive them shall be indemnified, and the curator shall be responsible for the payment thereof to the person who has obtained the certificate, probate or letters of administration, as the case may be.

198. (1) The District Judge shall take from the curator security for the faithful discharge of his trust, and for rendering satisfactory accounts of the same as hereinafter provided, and may authorise him to receive out of the property such remuneration, in no case exceeding five per centum on the moveable property and on the annual profits of the immoveable property, as the District Judge thinks reasonable.

(2) All surplus money realized by the curator shall be paid into Court and invested in public securities for the benefit of the persons entitled thereto upon adjudication of the summary proceeding.

(3) Security shall be required from the curator with all reasonable despatch, and, where it is practicable, shall be taken generally to answer all cases for which the person may be afterwards appointed curator ; but no delay in the taking of security shall prevent the Judge from immediately investing the curator with the powers of his office.

199. (1) Where the estate of the deceased person consists wholly or in part of land paying revenue to Government, Report from Collector in all matters regarding the propriety of summoning the party in possession, of appointing a curator, or of nominating individuals to that appointment, the District Judge shall demand a report from the Collector, and the Collector shall thereupon furnish the same :

Provided that in cases of urgency the Judge may proceed, in the first instance, without such report.

(2) The Judge shall not be obliged to act in conformity with any such report, but, in case of his acting otherwise than according to such report, he shall immediately forward a statement of his reasons to the High Court, and the High Court, if it is dissatisfied with such reasons, shall direct the Judge to proceed conformably to the report of the Collector.

200. The curator shall be subject to all orders of the District Judge regarding the institution or the defence of suits, Institution and defence of suits. and all suits may be instituted or defended in the name of the curator on behalf of the estate :

Provided that an express authority shall be requisite in the order of the curator's appointment for the collection of debts or rents : but such express authority shall enable the curator to give a full acquittance for any sums of money received by virtue thereof.

201. Pending the custody of the property by the curator, the District Judge may make such allowances to parties having a *prima facie* right thereto as upon a summary investigation of the rights and circumstances of the parties interested he considers necessary, and Allowances to apparent owners pending custody by curator. may, at his discretion, take security for the repayment thereof with interest, in the event of the party being found, upon the adjudication of the summary proceeding, not to be entitled thereto.

202. The curator shall file monthly accounts in abstract, and shall, on the expiry of each period of three months, if his administration lasts so long, and upon giving up the possession of the property, file a detailed account of his administration to the satisfaction of the District Judge. Accounts to be filed by curator.

203. (1) The accounts of the curator shall be open to the inspection of all parties interested ; and it shall be competent for any such interested party to appoint a separate person to keep a duplicate account of all receipts and payments by the curator. Inspection of accounts and right of interested party to keep duplicate.

(2) If it is found that the accounts of the curator are in arrear, or that they are erroneous or incomplete, or if the curator does not produce them whenever he is ordered to do so by the District Judge, he shall be punishable with fine not exceeding one thousand rupees for every such default.

204. If the Judge of any district has appointed a curator, in respect of the whole of the property of a deceased person, such appointment shall preclude the Judge of any other district within the same province from appointing any other curator, but the appointment of a curator in respect of a portion of the property of the deceased shall not preclude the appointment within the same province of another curator in respect of the residue or any portion thereof :

Provided that no Judge shall appoint a curator or entertain a summary proceeding in respect of property which is the subject of a summary proceeding previously instituted under this Part before another Judge :

Provided, further, that if two or more curators are appointed by different Judges for several parts of an estate, the High Court may make such order as it thinks fit for the appointment of one curator of the whole property.

205. An application under this Part to the District Judge must be made within six months of the death of the proprietor whose property is claimed by right in succession.

206. Nothing in this Part shall be deemed to authorise the contravention of any public act of settlement or of any legal directions given by a deceased proprietor of any property for the possession of his property after his decease in the event of minority or otherwise, and, in every such case, as soon as the Judge having jurisdiction over the property of a deceased person is satisfied of the existence of such directions, he shall give effect thereto.

207. Nothing in this Part shall be deemed to authorise any disturbance of the possession of a Court of Wards of any property ; and in case a minor, or other disqualified person whose property is subject to the Court of Wards is the party on whose behalf application is made under this Part, the District Judge, if he determines to summon the party in possession and to appoint a curator, shall invest the Court of Wards with the curatorship of the estate pending the proceeding without taking security as aforesaid ; and if the minor or other disqualified person, upon the adjudication of the summary proceeding, appears to be entitled to the property, possession shall be delivered to the Court of wards.

208. Nothing contained in this part shall be any impediment to the bringing of a suit either by the party whose application may have been rejected before or after the summoning of the party in possession, or by the party who may have been evicted from the possession under this Part.

269. The decision of a District Judge in a summary proceeding under this Part shall have no other effect than that of settling the actual possession, but for this purpose it shall be final, and shall not be subject to any appeal or review.

210. The Local Government may appoint public curators for any district or number of districts; and the District Judge having jurisdiction shall nominate such public curators in all cases where the choice of a curator is left discretionary with him under this Part.

## PART VIII.

### REPRESENTATIVE TITLE TO PROPERTY OF DECEASED ON SUCCESSION.

211. (1) The executor or administrator, as the case may be, of a deceased person is his legal representative for all purposes, and all the property of the deceased person vests in him as such.

(2) When the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, nothing herein contained shall vest in an executor or administrator any property of the deceased person which would otherwise have passed by survivorship to some other person.

212. (1) No right to any part of the property of a person who has died intestate can be established in any Court of Justice, unless letters of administration have first been granted by a Court of competent jurisdiction.

(2) This section shall not apply in the case of the intestacy of a Hindu, Muhammadan, Buddhist, Sikh, Jaina or Indian Christian.

213. (1) No right as executor or legatee can be established in any Court of Justice, unless a Court of competent jurisdiction in British India has granted probate of the will under which the right is claimed, or has granted letters of administration with the will or with a copy of an authenticated copy of the will annexed.

(2) This section shall not apply in the case of wills made by Muhammadans, and shall only apply in the case of wills made by any Hindu, Buddhist, Sikh or Jaina where such wills are of the class specified in section 57.

Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.

214. (1) No Court shall—

- (a) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming on succession to be entitled to the effects of the deceased person or to any part thereof, or
- (b) proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt,

except on the production, by the person so claiming, of—

- (i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or
- (ii) a certificate granted under section 31 or section 32 of the Administrator General's Act, 1913,\* and having the debt mentioned therein, or
- (iii) a succession certificate granted under Part X and having the debt specified therein, or
- (iv) a certificate granted under the Succession Certificate Act, 1889,† or
- (v) a certificate granted under Bombay Regulation No. VIII of 1827 and, if granted after the first day of May, 1889, having the debt specified therein.

(2) The word "debt" in sub-section (1) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes.

215. (1) A grant of probate or letters of administration in respect of an estate shall be deemed to supersede any certificate previously granted under Part X or under the Succession Certificate Act, 1889,† or Bombay Regulation No. VIII of 1827, in respect of any debts or securities included in the estate.

(2) When at the time of the grant of the probate or letters any suit or other proceeding instituted by the holder of any such certificate regarding any such debt or security is pending, the person to whom the grant is made shall, on applying to the Court in which the suit or proceeding is pending, be entitled to take the place of the holder of the certificate in the suit or proceeding :

Provided that, when any certificate is superseded under this section, all payments made to the holder of such certificate in ignorance of such supersession shall be held good against claims under the probate or letters of administration.

216. After any grant of probate or letters of administration, no other than the person to whom the same may have been granted shall have power to sue or prosecute any suit, or otherwise act as representative of the deceased, throughout the province in which the same may have been granted, until such probate or letters of administration has or have been recalled or revoked.

Grantee of probate or administration alone to sue, etc., until same revoked.

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## PART IX.

### PROBATE, LETTERS OF ADMINISTRATION AND ADMINISTRATION OF ASSETS OF DECEASED.

217. Save as otherwise provided by this Act or by any other law for the time being in force, all grants of probate and letters of administration with the will annexed and the administration of the assets of the deceased in cases of intestate succession shall be made or carried out, as the case may be, in accordance with the provisions of this Part.

Application of Part.

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## CHAPTER I-

### OF GRANT OF PROBATE AND LETTERS OF ADMINISTRATION.

218. (1) If the deceased has died intestate and was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, administration of his estate may be granted to any person who, according to the rules for the distribution of the estate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased's estate.

To whom administration may be granted, where deceased is a Hindu, Muhammadan, Buddhist, Sikh, Jaina or exempted person.

(2) When several such persons apply for such administration, it shall be in the discretion of the Court to grant it to any one or more of them.

(3) When no such person applies, it may be granted to a creditor of the deceased.

219. If the deceased has died intestate and was not a person belonging to any of the classes referred to in section 218, those who are connected with him, either by marriage or by consanguinity, are entitled to obtain letters of administration of his estate and effects in the order and according to the rules hereinafter stated, namely :—

Where deceased is not a Hindu, Muhammadan, Buddhist, Sikh, Jaina or exempted person.

(a) If the deceased has left a widow, administration shall be granted to the widow, unless the Court sees cause to exclude her, either on the ground of some personal disqualification, or because she has no interest in the estate of the deceased.

*Illustrations.*

(i) The widow is a lunatic or has committed adultery or has been barred by her marriage settlement of all interest in her husband's estate. There is cause for excluding her from the administration.

(ii) The widow has married again since the decease of her husband. This is not good cause for her exclusion.

(b) If the Judge thinks proper, he may associate any person or persons with the widow in the administration who would be entitled solely to the administration if there were no widow.

(c) If there is no widow, or if the Court sees cause to exclude the widow, it shall commit the administration to the person or persons who would be beneficially entitled to the estate according to the rules for the distribution of an intestate's estate :

Provided that, when the mother of the deceased is one of the class of persons so entitled, she shall be solely entitled to administration.

(d) Those who stand in equal degree of kindred to the deceased are equally entitled to administration.

(e) The husband surviving his wife has the same right of administration of her estate as the widow has in respect of the estate of her husband.

(f) When there is no person connected with the deceased by marriage or consanguinity who is entitled to letters of administration and willing to act, they may be granted to a creditor.

(g) Where the deceased has left property in British India, letters of administration shall be granted according to the foregoing rules, notwithstanding that he had his domicile in a country in which the law relating to testate and intestate succession differs from the law of British India.

**220.** Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death.

Effect of letters of administration.

**221.** Letters of administration do not render valid any intermediate acts of the administrator tending to the diminution or damage of the intestate's estate.

Acts not validated by administration.

**222.** (1) Probate shall be granted only to an executor appointed by the will.

Probate only to appointed executor.

(2) The appointment may be expressed or by necessary implication.

*Illustrations.*

(i) A wills that C be his executor if B will not. B is appointed executor by implication.

(ii) A gives a legacy to B and several legacies to other persons, among the rest to his daughter-in-law C, and adds "but should the within-named C be not living I do constitute and appoint B my whole and sole executrix." C is appointed executrix by implication.



(iii) A appoints several persons executors of his will and codicils and his nephew residuary legatee, and in another codicil are these words,—“I appoint my nephew my residuary legatee to discharge all lawful demands against my will and codicils signed of different dates.” The nephew is appointed an executor by implication.

223. Probate cannot be granted to any person who is a minor or is of unsound mind, nor, unless the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, to a married woman without the previous consent of her husband.

Persons to whom probate cannot be granted.

Grant of probate to several executors simultaneously or at different times.

224. When several executors are appointed, probate may be granted to them all simultaneously or at different times.

#### *Illustration.*

A is an executor of B's will by express appointment and C an executor of it by implication. Probate may be granted to A and C at the same time or to A first and then to C or to C first and then to A.

Separate probate of codicil discovered after grant of probate.

by the will.

225. (1) If a codicil is discovered after the grant of probate, a separate probate of that codicil may be granted to the executor, if it in no way repeals the appointment of executors made

(2) If different executors are appointed by the codicil, the probate of the will shall be revoked, and a new probate granted of the will and the codicil together.

Accrual of representation to surviving executor.

226. When probate has been granted to several executors, and one of them dies, the entire representation of the testator accrues to the surviving executor or executors.

227. Probate of a will when granted establishes the will from the death of the testator, and renders valid all intermediate acts of the executor as such.

Effect of probate.

228. When a will has been proved and deposited in a Court of competent jurisdiction situated beyond the limits of the Province, whether within or beyond the limits of His Majesty's dominions, and a properly authenticated copy of the will is produced, letters of administration may be granted with a copy of such copy annexed.

Administration with copy annexed of authenticated copy of will proved abroad.

229. When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted to any other person until a citation has been issued, calling upon the executor to accept or renounce his executorship;

Grant of administration where executor has not renounced.

Provided that, when one or more of several executors have proved a will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

230. The renunciation may be made orally in the presence of the Judge or by a writing signed by the person renouncing, and when made shall preclude him from ever thereafter applying for probate of the will appointing him executor.

Form and effect of renunciation of executorship.

231. If an executor renounces, or fails to accept an executorship within the time limited for the acceptance or refusal thereof, the will may be proved and letters of administration with a copy of the will annexed may be granted to the person who would be entitled to administration in case of intestacy.

Procedure where executor renounces or fails to accept within time limited.

Grant of administration to universal or residuary legatees.

232. When—

- (a) the deceased has made a will, but has not appointed an executor, or
- (b) the deceased has appointed an executor who is legally incapable or refuses to act, or who has died before the testator or before he has proved the will, or
- (c) the executor dies after having proved the will, but before he has administered all the estate of the deceased,

an universal or a residuary legatee may be admitted to prove the will, and letters of administration with the will annexed may be granted to him of the whole estate, or of so much thereof as may be unadministered.

233. When a residuary legatee who has a beneficial interest survives the testator, but dies before the estate has been fully administered, his representative has the same right to administration with the will annexed as such residuary legatee.

Right to administration of representative of deceased residuary legatee.

234. When there is no executor and no residuary legatee or representative of a residuary legatee, or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate, or any other legatee having a beneficial interest, or a creditor, may be admitted to prove the will, and letters of administration may be granted to him or them accordingly.

Grant of administration where no executor, nor residuary legatee nor representative of such legatee.

235. Letters of administration with the will annexed shall not be granted to any legatee other than an universal or a residuary legatee, until a citation has been issued and published in the manner hereinafter mentioned, calling on the next-of-kin to accept or refuse letters of administration.

Citation before grant of administration to legatee other than universal or residuary.

236. Letters of administration cannot be granted to any person who is a minor or is of unsound mind, nor, unless the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, to a married woman without the previous consent of her husband.

To whom administration may not be granted.

## CHAPTER II.

### OF LIMITED GRANTS.

#### *Grants limited in duration.*

237. When a will has been lost or mislaid since the testator's death, or has been destroyed by wrong or accident and not by any act of the testator, and a copy or the draft of the will has been preserved, probate may be granted of such copy or draft, limited until the original or a properly authenticated copy of it is produced.

Probate of copy or draft of lost will.

238. When a will has been lost or destroyed and no copy has been made nor the draft preserved, probate may be granted of its contents if they can be established by evidence.

Probate of contents of lost or destroyed will.

239. When the will is in the possession of a person residing out of the province in which application for probate is made, who has refused or neglected to deliver it up, but a copy has been transmitted to the executor, and it is necessary for the interest of the estate that probate should be granted without waiting for the arrival of the original, probate may be granted of the copy so transmitted, limited until the will or an authenticated copy of it is produced.

Probate of copy where original exists.

240. Where no will of the deceased is forthcoming but there is reason to believe that there is a will in existence, letters of administration may be granted, limited until the will or an authenticated copy of it is produced.

Administration until will produced.

#### *Grants for the use and benefit of others having right.*

241. When any executor is absent from the province in which application is made, and there is no executor within the province willing to act, letters of administration, with the will annexed, may be granted to the attorney or agent of the absent executor, for the use and benefit of his principal, limited until he shall obtain probate or letters of administration granted to himself.

Administration, with will annexed, to attorney of absent executor.

**242.** When any person to whom, if present, letters of administration, with the will annexed, might be granted, is absent from the province, letters of administration, with the will annexed, may be granted to his attorney or agent, limited as mentioned in section 241.

**243.** When a person entitled to administration in case of intestacy is absent from the province, and no person equally entitled is willing to act, letters of administration may be granted to the attorney or agent of the absent person, limited as mentioned in section 241.

**244.** When a minor is sole executor or sole residuary legatee, letters of administration, with the will annexed, may be granted to the legal guardian of such minor or to such other person as the Court may think fit until the minor has attained his majority at which period, and not before, probate of the will shall be granted to him.

**245.** When there are two or more minor executors and no executor who has attained majority, or two or more residuary legatees and no residuary legatee who has attained majority, the grant shall be limited until one of them shall have attained his majority.

**246.** If a sole executor or a sole universal or residuary legatee, or a person who would be solely entitled to the estate of the intestate according to the rule for the distribution of intestates' estates applicable in the case of the deceased, is a minor or lunatic, letters of administration, with or without the will annexed, as the case may be, shall be granted to the person to whom the care of his estate has been committed by competent authority, or, if there is no such person, to such other person as the Court may think fit to appoint, for the use and benefit of the minor or lunatic until he attains majority or becomes of sound mind, as the case may be.

**247.** Pending any suit touching the validity of the will of a deceased person or for obtaining or revoking any probate or any grant of letters of administration, the Court may appoint an administrator of the estate of such deceased person, who shall have all the rights and powers of a general administrator, other than the right of distributing such estate, and every such administrator shall be subject to the immediate control of the Court and shall act under its direction.

*Grants for special purposes.*

248. If an executor is appointed for any limited purpose specified in the will, the probate shall be limited to that purpose, and if he should appoint an attorney or agent to take administration on his behalf, the letters of administration, with the will annexed, shall be limited accordingly.

Probate limited to purpose specified in will.

249. If an executor appointed generally gives an authority to an attorney or agent to prove a will on his behalf, and the authority is limited to a particular purpose, the letters of administration, with the will annexed, shall be limited accordingly.

Administration, with will annexed, limited to particular purpose.

250. Where a person dies, leaving property of which he was the sole or surviving trustee, or in which he had no beneficial interest on his own account, and leaves no general representative, or one who is unable or unwilling to act as such, letters of administration, limited to such property, may be granted to the beneficiary, or to some other person on his behalf.

Administration limited to property in which person has beneficial interest.

251. When it is necessary that the representative of a person deceased be made a party to a pending suit, and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of representing the deceased in the said suit, or in any other cause or suit which may be commenced in the same or in any other Court between the parties, or any other parties, touching the matters at issue in the said cause or suit, and until a final decree shall be made therein and carried into complete execution.

Administration limited to suit.

252. If, at the expiration of twelve months from the date of any probate or letters of administration, the executor or administrator to whom the same has been granted is absent from the province within which the Court which has granted the probate or letters of administration exercises jurisdiction, the Court may grant, to any person whom it may think fit, letters of administration limited to the purpose of becoming and being made a party to a suit, to be brought against the executor or administrator, and carrying the decree which may be made therein into effect.

Administration limited to purpose of becoming party to suit to be brought against administrator.

253. In any case in which it appears necessary for preserving the property of a deceased person, the Court within whose jurisdiction any of the property is situate may grant to any person, whom such Court may think fit, letters of administration limited to the collection and preservation of the property of the deceased and to the giving of discharges for debts due to his estate, subject to the directions of the Court.

Administration limited to collection and preservation of deceased's property.

254. (1) When a person has died intestate, or leaving a will of which Appointment, as ad. there is no executor willing and competent to ministrator, of person act or where the executor is, at the time of the other than one who, in death of such person, resident out of the province, and it appears to the Court to be necessary or convenient to appoint some person to administration. administer the estate or any part thereof, other than the person who, in ordinary circumstances, would be entitled to a grant of administration, the Court may, in its discretion, having regard to consanguinity, amount of interest, the safety of the estate and probability that it will be properly administered, appoint such person as it thinks fit to be administrator.

(2) In every such case letters of administration may be limited or not as the Court thinks fit.

#### *Grants with exception.*

255. Whenever the nature of the case requires that an exception be made, probate of a will, or letters of administration with the will annexed, shall be granted subject to such exception.

Probate or administration, with will annexed, subject to exception.

256. Whenever the nature of the case requires that an exception be made, letters of administration shall be granted subject to such exception.

Administration with exception.

#### *Grants of the rest.*

257. Whenever a grant with exception of probate, or of letters of administration with or without the will annexed, has been made, the person entitled to probate or administration of the remainder of the deceased's estate may take a grant of probate or letters of administration, as the case may be, of the rest of the deceased's estate.

Probate or administration of rest.

#### *Grants of effects unadministered.*

258. If an executor to whom probate has been granted, has died, leaving a part of the testator's estate unadministered, a new representative may be appointed for the purpose of administering such part of the estate.

Grant of effects unadministered.

259. In granting letters of administration of an estate not fully administered, the Court shall be guided by the same rules as apply to original grants, and shall grant letters of administration to those persons only to whom original grants might have been made,

Rules as to grants of effects, unadministered.

**260.** When a limited grant has expired by efflux of time, or the happening of the event or contingency on which it was limited, and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made.

Administration when limited grant expired and still some part of estate unadministered.

### CHAPTER III.

#### ALTERATION AND REVOCATION OF GRANTS.

**261.** Errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the Court, and the grant of probate or letters of administration may be altered and amended accordingly.

What errors may be rectified by Court.

**262.** If, after the grant of letters of administration with the will annexed, a codicil is discovered, it may be added to the grant on due proof and identification and the grant may be altered, and amended accordingly.

Procedure where codicil discovered after grant of administration with will annexed.

**263.** The grant of probate or letters of administration may be revoked or annulled for just cause.

Revocation or annulment for just cause.

*Explanation.*—Just cause shall be deemed to exist where—

- (a) the proceedings to obtain the grant were defective in substance;  
or
- (b) the grant was obtained fraudulently by making a false suggestion, or by concealing from the Court something material to the case; or
- (c) the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant, though such allegation was made in ignorance or inadvertently; or
- (d) the grant has become useless and inoperative through circumstances; or
- (e) the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Chapter VII of this Part, or has exhibited under that Chapter an inventory or account which is untrue in a material respect.

*Illustrations.*

- (i) The Court by which the grant was made had no jurisdiction.
- (ii) The grant was made without citing parties who ought to have been cited.
- (iii) The will of which probate was obtained was forged or revoked.
- (iv) A obtained letters of administration to the estate of B, as his widow, but it has since transpired that she was never married to him.
- (v) A has taken administration to the estate of B as if he had died intestate, but a will has since been discovered.
- (vi) Since probate was granted, a later will has been discovered.
- (vii) Since probate was granted, a codicil has been discovered which revokes or adds to the appointment of executors under the will.
- (viii) The person to whom probate was, or letters of administration were, granted has subsequently become of unsound mind.

## CHAPTER IV.

## OF THE PRACTICE IN GRANTING AND REVOKING PROBATES AND LETTERS OF ADMINISTRATION.

Jurisdiction of District Judge in granting and revoking probates, etc.

264 (1) The District Judge shall have jurisdiction in granting and revoking probates and letters of administration in all cases within his district.

(2) Except in cases to which section 57 applies, no Court in any local area beyond the limits of the towns of Calcutta, Madras and Bombay, and the province of Burma, shall, where the deceased is a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, receive applications for probate or letters of administration until the Local Government has, by a notification in the local official Gazette, authorised it so to do.

265. (1) The High Court may appoint such judicial officers within any district as it thinks fit to act for the District Judge as Delegates to grant probate and letters of administration in non-contentious cases, within such local limits as it may prescribe :

Power to appoint Delegate of District Judge to deal with non-contentious cases.

Provided that, in the case of High Courts not established by Royal Charter, such appointment shall not be without the previous sanction of the Local Government.

(2) Persons so appointed shall be called " District Delegates ".

266. The District Judge shall have the like powers and authority in relation to the granting of probate and letters of administration, and all matters connected therewith, as are by law vested in him in relation to any civil suit or proceeding pending in his Court.

District Judge's powers as to grant of probate and administration.



267. (1) The District Judge may order any person to produce and bring into Court any paper or writing, being or purporting to be testamentary, which may be shown to be in the possession or under the control of such person.

District Judge may order person to produce testamentary papers.

(2) If it is not shown that any such paper or writing is in the possession or under the control of such person, but there is reason to believe that he has the knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined respecting the same.

(3) Such person shall be bound to answer truly such questions as may be put to him by the Court, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like punishment under the Indian Penal Code,\* in case of default in not attending or in not answering such questions or not bringing in such paper or writing, as he would have been subject to in case he had been a party to a suit and had made such default.

(4) The costs of the proceeding shall be in the discretion of the Judge.

268. The proceedings of the Court of the District Judge in relation to the granting of probate and letters of administration shall, save as hereinafter otherwise provided, be regulated, so far as the circumstances of the case permit, by the Code of Civil Procedure, 1908.†

Proceedings of District Judge's Court in relation to probate and administration.

269. (1) Until probate is granted of the will of a deceased person, or an administrator of his estate is constituted, the District Judge, within whose jurisdiction any part of the property of the deceased person is situate, is authorised and required to interfere for the protection of such property at the instance of any person claiming to be interested therein, and in all other cases where the Judge considers that the property incurs any risk of loss or damage ; and for that purpose, if he thinks fit, to appoint an officer to take and keep possession of the property.

When and how District Judge to interfere for protection of property.

(2) This section shall not apply when the deceased is a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, nor shall it apply to any part of the property of an Indian Christian who has died intestate.

270. Probate of the will or letters of administration to the estate of a deceased person may be granted by a District Judge under the seal of his Court, if it appears by a petition, verified as hereinafter provided, of the person applying for the same that the testator or intestate, as the case may be at the time of his decease, had a fixed place of abode, or any property, moveable or immoveable, within the jurisdiction of the Judge.

When probate or administration may be granted by District Judge.

\* XLV of 1860.

† V of 1908.

271. When the application is made to the Judge of a District in Disposal of application made to Judge of district in which deceased had no fixed abode. which the deceased had no fixed abode at the time of his death, it shall be in the discretion of the Judge to refuse the application, if in his judgment it could be disposed of more justly or conveniently in another district, or, where the application is for letters of administration, to grant them absolutely, or limited to the property within his own-jurisdiction.

272. Probate and letters of administration may, upon application for that purpose to any District Delegate, be granted by him in any case in which there is no contention, if it appears by petition, verified as herein-after provided, that the testator or intestate, as the case may be, at the time of his death, had a fixed place of abode within the jurisdiction of such Delegate. Probate and letters of administration may be granted by Delegate.

273. Probate or letters of administration shall have effect over all the property and estate, moveable or immoveable, of the deceased, throughout the province in which the same is or are granted, and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him, and shall afford full indemnity to all debtors, paying their debts and all persons delivering up such property to the person to whom such probate or letters of administration have been granted : Conclusiveness of probate or letters of administration.

Provided that probates and letters of administration granted—

(a) by a High Court, or

(b) by a District Judge, where the deceased at the time of his death had a fixed place of abode situate within the jurisdiction of such Judge, and such Judge certifies that the value of the property and estate affected beyond the limits of the province does not exceed ten thousand rupees.

shall, unless otherwise directed by the grant, have like effect throughout the whole of British India.

274. (1) Where probate or letters of administration has or have been granted by a High Court or District Judge with the effect referred to in the proviso to section 273, the High Court or District Judge shall send a certificate thereof to the following Courts, namely :— Transmission to High Courts of certificate of grants under proviso to section 273.

(a) when the grant has been made by a High Court, to each of the other High Courts ;

(b) when the grant has been made by a District Judge, to the High Court to which such District Judge is subordinate and to each of the other High Courts.

(2) Every certificate referred to in sub-section (1) shall be made as nearly as circumstances admit in the form set forth in Schedule IV, and such certificate shall be filed by the High Court receiving the same.

(3) Where any portion of the assets has been stated by the petitioner, as hereinafter provided in sections 276 and 278, to be situate within the jurisdiction of a District Judge in another province, the Court required to send the certificate referred to in sub-section (1) shall send a copy thereof to such District Judge, and such copy shall be filed by the District Judge receiving the same.

275. The application for probate or letters of administration if made and verified in the manner hereinafter provided, shall be conclusive for the purpose of authorising the grant of probate or administration : and no such grant shall be impeached by reason only that the testator or intestate had no fixed place of abode or no property within the district at the time of his death, unless by a proceeding to revoke the grant if obtained by a fraud upon the Court.

276. (1) Application for probate or for letters of administration, with the will annexed, shall be made by a petition distinctly written in English or in the language in ordinary use in proceedings before the Court in which the application is made, with the will or in the cases mentioned in sections 237, 238, and 239, a copy, draft, or statement of the contents thereof, annexed, and stating—

- (a) the time of the testator's death,
- (b) that the writing annexed is his last will and testament,
- (c) that it was duly executed,
- (d) the amount of assets which are likely to come to the petitioner's hands, and
- (e) when the application is for probate, that the petitioner is the executor named in the will.

(2) In addition to these particulars the petition shall further state,—

- (a) when the application is to the District Judge, that the deceased at the time of his death had a fixed place of abode, or had some property, situate within the jurisdiction of the Judge ; and
- (b) when the application is to a District Delegate, that the deceased at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.

(3) Where the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another province, the petition shall further state the amount of such assets in each province and the District Judges within whose jurisdiction such assets are situate.

**277.** In cases wherein the will, copy or draft is written in any language other than English or than that in ordinary use in proceedings before the Court, there shall be a translation thereof annexed to the petition by a translator of the Court, if the language be one for which a translator is appointed ; or, if the will, copy or draft is in any other language, then by any person competent to translate the same, in which case such translation shall be verified by that person in the following manner, namely :—

“ I (A. B.) do declare that I read and perfectly understand the language and character of the original, and that the above is a true and accurate translation thereof.”

**Petition for letters of administration**      **278** (1) Application for letters of administration shall be made by petition distinctly written as aforesaid and stating—

- (a) the time and place of the deceased's death,
- (b) the family or other relatives of the deceased, and their respective residences,
- (c) the right in which the petitioner claims.
- (d) the amount of assets which are likely to come to the petitioner's hands.
- (e) when the application is to the District Judge, that the deceased at the time of his death had a fixed place of abode, or had some property, situate within the jurisdiction of the Judge ; and
- (f) when the application is to a District Delegate, that the deceased at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.

(2) Where the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another province, the petition shall further state the amount of such assets in each province and the District Judges within whose jurisdiction such assets are situate.

**279** (1) Every person applying to any of the Courts mentioned in the proviso to section 273 for probate of a will or letters of administration of an estate intended to have effect throughout British India, shall state in his petition, in addition to the matters respectively required by section 276 and section 278, that to the best of his belief no application has been made to any other Court for a probate of the same will or for letters of administration of the same estate, intended to have such effect as last aforesaid,

or, where any such application has been made, the Court to which it was made, the person or persons by whom it was made and the proceedings (if any) had thereon.

(2) The Court to which any such application is made under the proviso to section 273 may, if it thinks fit, reject the same.

280. The petition for probate or letters of administration shall in all cases be subscribed by the petitioner and his pleader, if any, and shall be verified by the petitioner in the following manner, namely :—  
 Petition for probate, etc. to be signed and verified.

‘ I (A. B.), the petitioner in the above petition, declare that what is stated therein is true to the best of my information and belief.’

281. Where the application is for probate, the petition shall also be verified by at least one of the witnesses to the will (when procurable) in the manner or to the effect following, namely :—  
 Verification of petition for probate, by one witness to will,

“ I (C D), one of the witnesses to the last will and testament of the testator mentioned in the above petition, declare that I was present and saw the said testator affix his signature (*or* mark) thereto (*or* that the said testator acknowledged the writing annexed to the above petition to be his last will and testament in my presence).

282 If any petition or declaration which is hereby required to be verified contains any averment which the person making the verification knows or believes to be false, such person shall be deemed to have committed an offence under section 193 of the Indian Penal Code.\*  
 Punishment for false averment in petition or declaration.

283. (1) In all cases the District Judge or District Delegate may, if he thinks proper,—  
 Powers of District Judge.

(a) examine the petitioner in person, upon oath ;

(b) require further evidence of the due execution of the will or the right of the petitioner to the letters of administration, as the case may be ;

(c) issue citations calling upon all persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate or letters of administration.

(2) The citation shall be fixed up in some conspicuous part of the court-house, and also in the office of the Collector of the district and otherwise published or made known in such manner as the Judge or District Delegate issuing the same may direct.

(3) Where any portion of the assets has been stated by the petitioner to be situate within the jurisdiction of a District Judge in another province, the District Judge issuing the same shall cause a copy of the citation to be sent to such other District Judge, who shall publish the same in the same manner as if it were a citation issued by himself, and shall certify such publication to the District Judge who issued the citation.

Caveats against grant of probate or administration.

284 (1) Caveats against the grant of probate or administration may be lodged with the District Judge or a District Delegate.

(2) Immediately on any caveat being lodged with any District Delegate, he shall send copy thereof to the District Judge.

(3) Immediately on a caveat being entered with the District Judge, a copy thereof shall be given to the District Delegate, if any, within whose jurisdiction it is alleged the deceased had a fixed place of abode at the time of his death, and to any other Judge or District Delegate to whom it may appear to the District Judge expedient to transmit the same.

Form of caveat.

(4) The caveat shall be made as nearly as circumstances admit in the form set forth in Schedule V.

285. No proceeding shall be taken on a petition for probate or letters of administration after a caveat against the grant thereof has been entered with the Judge or District Delegate to whom the application has been made or notice has been given of its entry with some other Delegate, until after such notice to

After entry of caveat, no proceeding taken on petition until after notice to caveator.

the person by whom the same has been entered as the Court may think reasonable.

286. A District Delegate shall not grant probate or letters of administration in any case in which there is contention as to the grant, or in which it otherwise appears to him that probate or letters of administration ought not to be granted in his Court.

District Delegate when not to grant probate or administration.

*Explanation.*—"Contention" means the appearance of any one in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf, to oppose the proceeding.

287. In every case in which there is no contention, but it appears to the District Delegate doubtful whether the probate or letters of administration should or should not be granted, or when any question arises in relation to the grant, or application for the grant, of any probate or letters of administration, the

Power to transmit statement to District Judge in doubtful cases where no contention.

District Delegate may, if he thinks proper, transmit a statement of the matter in question to the District Judge, who may direct the District Delegate to proceed in the matter of the application, according to such instructions as to the Judge may seem necessary, or may forbid any further proceeding by the District Delegate in relation to the matter of such application, leaving the party applying for the grant in question to make application to the Judge.

**288.** In every case, in which there is contention, or the District Delegate is of opinion that the probate or letters of administration should be refused in his Court, the petition, with any documents which may have been filed therewith, shall be returned to the person by whom the application was made, in order that the same may be presented to the District Judge, unless the District Delegate thinks it necessary, for the purposes of justice, to impound the same, which he is hereby authorised to do ; and, in that case, the same shall be sent by him to the District Judge.

Procedure where there is contention, or District Delegate thinks probate or letters of administration should be refused in his Court.

**289.** When it appears to the District Judge or District Delegate that probate of a will should be granted, he shall grant the same under the seal of his Court in the form set forth in Schedule VI.

Grant of probate to be under seal of Court.

**290.** When it appears to the District Judge or District Delegate that letters of administration to the estate of a person deceased, with or without a copy of the will annexed, should be granted, he shall grant the same under the seal of his Court in the form set forth in Schedule VII.

Grant of letters of administration to be under seal of Court.

**291.** (1) Every person to whom any grant of letters of administration, other than a grant under section 241, is committed, shall give a bond to the District Judge with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge may, by general or special order, direct.

Administration-bond.

(2) When the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person—

(a) the exception made by sub-section §(1) in respect of a grant under section 241 shall not operate :

(b) the District Judge may demand a like bond from any person to whom probate is granted.

**292.** The Court may, on application made by petition and on being satisfied that the engagement of any such bond has not been kept, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise, as the Court may think fit, assign the same to some person, his executors or administrators, who shall thereupon be entitled to sue on the said bond in his or their own name or names as if the same had been originally given to him or them instead of to the Judge of the Court, and shall be entitled to recover thereon, as trustees for all persons interested, the full amount recoverable in respect of any breach thereof.

Assignment of administration-bond.

Time for grant of probate and administration.

from the day of the testator or intestate's death.

293. No probate of a will shall be granted until after the expiration of seven clear days, and no letters of administration shall be granted until after the expiration of fourteen clear days

Filing of original wills of which probate or administration with will annexed granted.

public registry for wills is established.

294 (1) Every District Judge, or District Delegate, shall file and preserve all original wills, of which probate or letters of administration with the will annexed may be granted by him, among the records of his Court, until some

(2) The Local Government shall make regulations for the preservation and inspection of the wills so filed.

295. In any case before the District Judge in which there is contention, the proceedings shall take, as nearly as may be, the form of a regular suit, according to the provisions of the Code of Civil Procedure, 1908, in which the petitioner for probate or letters of administration, as the case may be, shall be the plaintiff, and the person who has appeared to oppose the grant shall be the defendant.

296. (1) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

(2) If such person wilfully and without reasonable cause omits so to deliver up the probate or letters, he shall be punishable with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

297. When a grant of probate or letters of administration is revoked, all payments *bona fide* made to any executor or administrator under such grant before the revocation thereof shall notwithstanding such revocation be a legal discharge to the person making the same; and the executor or administrator who has acted under any such revoked grant may retain and reimburse himself in respect of any payments made by him which the person to whom probate or letters of administration may afterwards be granted might have lawfully made.

298. Notwithstanding anything hereinbefore contained, it shall, where the deceased was a Muhammadan, Buddhist or exempted person, or a Hindu, Sikh or Jaina to whom section 57 does not apply, be in the discretion of the Court to make an order refusing, for reasons to be recorded by it in writing, to grant any application for letters of administration made under this Act.



299. Every order made by a District Judge by virtue of the powers hereby conferred upon him shall be subject to appeal to the High Court in accordance with the provisions of the Code of Civil Procedure, 1908, applicable to appeals.

Appeals from orders of District Judge.

300. (1) The High Court shall have concurrent jurisdiction with the District Judge in the exercise of all the powers hereby conferred upon the District Judge.

Concurrent jurisdiction of High Court.

(2) Except in cases to which section 57 applies, no High Court, in exercise of the concurrent jurisdiction hereby conferred over any local area beyond the limits of the towns of Calcutta, Madras and Bombay, and the province of Burma, shall where the deceased is a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, receive applications for probate or letters of administration until the Local Government has, by a notification in the local official Gazette, authorised it so to do.

301. The High Court may, on application made to it, suspend, remove or discharge any private executor or administrator and provide for the succession of another person to the office of any such executor or administrator who may cease to hold office, and the vesting in such successor of any property belonging to the estate.

Removal of executor or administrator and provision for successor.

302. Where probate or letters of administration in respect of any estate has or have been granted under this Act, the High Court may, on application made to it, give to the executor or administrator any general or special directions in regard to the estate or in regard to the administration thereof.

Directions to executor or administrator.

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## CHAPTER V.

### OF EXECUTORS OF THEIR OWN WRONG.

303. A person who intermeddles with the estate of the deceased, or does any other act which belongs to the office of executor, while there is no rightful executor or administrator in existence, thereby makes himself an executor of his own wrong.

Executor of his own wrong.

*Exceptions.*—(1) Intermeddling with the goods of the deceased for the purpose of preserving them or providing for his funeral or for the immediate necessities of his family or property, does not make an executor of his own wrong.

(2) Dealing in the ordinary course of business with goods of the deceased received from another does not make an executor of his own wrong.

*Illustrations.*

(i) A uses or gives away or sells some of the goods of the deceased, or takes them to satisfy his own debt or legacy or receives payment of the debts of the deceased. He is an executor of his own wrong.

(ii) A, having been appointed agent by the deceased in his lifetime to collect his debts and sell his goods, continues to do so after he has become aware of his death. He is an executor of his own wrong in respect of acts done after he has become aware of the death of the deceased.

(iii) A sues as executor of the deceased, not being such. He is an executor of his own wrong.

304. When a person has so acted as to become an executor of his own wrong, he is answerable to the rightful executor or administrator, or to any creditor or legatee of the deceased, to the extent of the assets which may have come to his hands after deducting payments made to the rightful executor or administrator, and payments made in due course of administration.

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## CHAPTER VI:

### OF THE POWERS OF AN EXECUTOR OR ADMINISTRATOR.

305. An executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and may exercise the same power for the recovery of debts as the deceased had when living.

In respect of causes of action surviving deceased and rents due at death.

306. All demands whatsoever and all rights to prosecute or defend any action or special proceeding existing in favour of or against a person at the time of his decease, survive to and against his executors or administrators; except causes of action for defamation, assault, as defined in the Indian Penal Code,\* or other personal injuries not causing the death of the party; and except also cases, where, after the death of the party, the relief sought could not be enjoyed or granting it would be nugatory.

Demands and rights of action of or against deceased survive to and against executor or administrator.

*Illustrations.*

(i) A collision takes place on a railway in consequence of some neglect or default of an official, and a passenger is severely hurt, but not so as to cause death. He afterwards dies without having brought any action. The cause of action does not survive.

(ii) A sues for divorce. A dies. The cause of action does not survive to his representative.

307. (1) Subject to the provisions of sub-section (2), an executor or administrator has power to dispose of the property of the deceased, vested in him under section 211, either wholly or in part, in such manner as he may think fit.

Power of executor or administrator to dispose of property.

*Illustrations.*

(i) The deceased has made a specific bequest of part of his property. The executor, not having assented to the bequest, sells the subject of it. The sale is valid.

(ii) The executor in the exercise of his discretion mortgages a part of the immoveable estate of the deceased. The mortgage is valid.

(2) If the deceased was a Hindu, Mahammadan, Buddhist, Sikh or Jaina or an exempted person, the general power conferred by sub-section (1) shall be subject to the following restrictions and conditions, namely:—

(i) The power of an executor to dispose of immoveable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

(ii) An administrator may not, without the previous permission of the Court by which the letters of administration were granted—

(a) mortgage, charge or transfer by sale, gift, exchange or otherwise any immoveable property for the time being vested in him under section 211, or

(b) lease any such property for a term exceeding five years.

(iii) A disposal of property by an executor or administrator in contravention of clause (i) or clause (ii), as the case may be, is voidable at the instance of any other person interested in the property.

(3) Before any probate or letters of administration is or are granted in such a case, there shall be endorsed thereon or annexed thereto a copy of sub-section (1) and clauses (i) and (iii) of sub-section (2) or of sub-section (1) and clauses (ii) and (iii) of sub-section (2), as the case may be.

(4) A probate or letters of administration shall not be rendered invalid by reason of the endorsement or annexure required by sub-section (3) not having been made thereon or attached thereto, nor shall the absence of such an endorsement or annexure authorise an executor or administrator to act otherwise than in accordance with the provisions of this section.

General powers of administration.

308. An executor or administrator may, in addition to, and not in derogation of, any other powers of expenditure lawfully exercisable by him, incur expenditure—

- (a) on such acts as may be necessary for the proper care or management of any property belonging to any estate administered by him, and
- (b) with the sanction of the High Court, on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property.

Commission or agency charges.

309. An executor or administrator shall not be entitled to receive or retain any commission or agency charges at a higher rate than that for the time being fixed in respect of the Administrator General by or under the Administrator General's Act, 1913.\*

310. If any executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold.

Purchase by executor or administrator of deceased's property.

311. When there are several executors or administrators, the powers of all may, in the absence of any direction to the contrary, be exercised by any one of them who has proved the will or taken out administration.

Powers of several executors or administrators exercisable by one.

#### *Illustrations.*

- (i) One of several executors has power to release a debt due to the deceased.
- (ii) One has power to surrender a lease.
- (iii) One has power to sell the property of the deceased, whether moveable or immoveable.
- (iv) One has power to assent to a legacy.
- (v) One has power to endorse a promissory note payable to the deceased.
- (vi) The will appoints A, B, C and D to be executors, and directs that two of them shall be a quorum. No act can be done by a single executor.

Survival of powers on death of one of several executors or administrators.

vors or survivor.

Powers of administrator of effects unadministered.

312. Upon the death of one or more of several executors or administrators, in the absence of any direction to the contrary in the will or grant of letters of administration, all the powers of the office become vested in the survivors or survivor.

313. The administrator of effects unadministered has, with respect to such effects, the same powers as the original executor or administrator.

314. An administrator during minority has all the powers of an ordinary administrator.

Powers of administrator during minority.

315. When a grant of probate or letters of administration has been made to a married woman, she has all the powers of an ordinary executor or administrator.

Powers of married executrix or administratrix.

## CHAPTER VII.

### OF THE DUTIES OF AN EXECUTOR OR ADMINISTRATOR.

316. It is the duty of an executor to provide funds for the performance of the necessary funeral ceremonies of the deceased in a manner suitable to his condition, if he has left property sufficient for the purpose.

As to deceased's funeral.

317. (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character; and shall in like manner, within one year from the grant or within such further time as the said Court may appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

Inventory and account.

(2) The High Court may prescribe the form in which an inventory or account under this section is to be exhibited.

(3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the Indian Penal Code.\*

(4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code.

318. In all cases where a grant has been made of probate or letters of administration intended to have effect throughout the whole of British India, the executor or administrator shall include in the inventory of the effects of the deceased all his moveable and immoveable property situate in British India, and the value of such property situate in each province shall be separately stated in such inventory, and the probate or letters of administration shall be chargeable with a fee corresponding to the entire amount or value of the property affected thereby wheresoever situate within British India.

Inventory to include property in any part of British India in certain cases.

319. The executor or administrator shall collect, with reasonable diligence, the property of the deceased and the debts that were due to him at the time of his death.

As to property of, and debts owing to, deceased.

320. Funeral expenses to a reasonable amount, according to the degree and quality of the deceased, and death-bed charges, including fees for medical attendance, and board and lodging for one month previous to his death, shall be paid before all debts.

Expenses to be paid before all debts.

321. The expenses of obtaining probate or letters of administration including the costs incurred for or in respect of any judicial proceedings that may be necessary for administering the estate, shall be paid next after the funeral expenses and death-bed charges.

Expenses to be paid next after such expenses.

322. Wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan or domestic servant shall next be paid, and then the other debts of the deceased according to their respective priorities (if any).

Wages for certain services to be next paid, and then other debts.

323. Save as aforesaid, no creditor shall have a right of priority over another ; but the executor or administrator shall pay all such debts as he knows of, including his own, equally and rateably as far as the assets of the deceased will extend.

Save as aforesaid, all debts to be paid equally and rateably.

324. (1) If the domicile of the deceased was not in British India, the application of his moveable property to the payment of his debts is to be regulated by the law of British India.

Application of moveable property to payment of debts where domicile not in British India.

(2) No creditor who has received payment of a part of his debt by virtue of sub-section (1) shall be entitled to share in the proceeds of the immovable estate of the deceased unless he brings such payment into account for the benefit of the other creditors.

(3) This section shall not apply where the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person.

#### *Illustration.*

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal leaving moveable property to the value of 5,000 rupees, and immovable property to the value of 10,000 rupees, debts on instruments under seal to the amount of 10,000 rupees, and debts on instruments not under seal to the same amount. The creditors holding instruments under seal receive half of their debts out of the proceeds of the moveable estate. The proceeds of the immovable estate are to be applied in payment of the debts on instruments not under seal until one-half of such debts has been discharged. This will leave 5,000 rupees which are to be distributed rateably amongst all the creditors without distinction, in proportion to the amount which may remain due to them.

Debts to be paid before legacies.      325. Debts of every description must be paid before any legacy.

326. If the estate of the deceased is subject to any contingent liabilities, an executor or administrator is not bound to pay any legacy without a sufficient indemnity to meet the liabilities whenever they may become due.  
 Executor or administrator not bound to pay legacies without indemnity.

327. If the assets, after payment of debts, necessary expenses and specific legacies, are not sufficient to pay all the General legacies in full, the latter shall abate or be diminished in equal proportions, and, in the absence of any direction to the contrary in the will, the executor has no right to pay one legatee in preference to another or to retain any money on account of a legacy to himself or to any person for whom he is a trustee.  
 Abatement of general legacies.

328. Where there is a specific legacy, and the assets are sufficient for the payment of debts and necessary expenses, the thing specified must be delivered to the legatee without any abatement.  
 Non-abatement of specific legacy when assets sufficient to pay debts.

329. Where there is a demonstrative legacy, and the assets are sufficient for the payment of debts and necessary expenses, the legatee has a preferential claim for payment of his legacy out of the fund from the which the legacy is directed to be paid until such fund is exhausted and if, after the fund is exhausted, part of the legacy still remains unpaid, he is entitled to rank for the remainder against the general assets as for a legacy of the amount of such unpaid remainder.  
 Right under demonstrative legacy when assets sufficient to pay debts and necessary expenses.

330. If the assets are not sufficient to answer the debts and the specific legacies, an abatement shall be made from the latter rateably in proportion to their respective amounts.  
 Rateable abatement of specific legacies.

#### *Illustration.*

A has bequeathed to B a diamond ring valued at 500 rupees, and to C a horse, valued at 1,000 rupees. It is found necessary to sell all the effects of the testator ; and his assets, after payment of debts, are only 1,000 rupees. Of this sum rupees 333-5-4 are to be paid to B, and rupees 666-10-8 to C.

331. For the purpose of abatement, a legacy for life, a sum appropriated by the will to produce an annuity, and the value of an annuity when no sum has been appropriated to produce it, shall be treated as general legacies.  
 Legacies treated as general for purpose of abatement.

## CHAPTER VIII.

## OF ASSENT TO A LEGACY BY EXECUTOR OR ADMINISTRATOR.

Assent necessary to complete legatee's title

332. The assent of the executor or administrator is necessary to complete a legatee's title to his legacy.

*Illustrations.*

(i) A by his will bequeaths to B his Government paper which is in deposit with the Imperial Bank of India. The Bank has no authority to deliver the securities, nor B a right to take possession of them, without the assent of the executor.

(ii) A by his will has bequeathed to C his house in Calcutta in the tenancy of B. C is not entitled to receive the rents without the assent of the executor or administrator.

333. (1) The assent of the executor or administrator to a specific bequest shall be sufficient to divest his interest as executor or administrator therein, and to transfer the subject of the bequest to the legatee, unless the nature or the circumstances of the property require that it shall be transferred in a particular way.

(2) This assent may be verbal, and it may be either express or implied from the conduct of the executor or administrator.

*Illustrations.*

(i) A horse is bequeathed. The executor requests the legatee to dispose of it, or a third party proposes to purchase the horse from the executor, and he directs him to apply to the legatee. Assent to the legacy is implied.

(ii) The interest of a fund is directed by the will to be applied for the maintenance of the legatee during his minority. The executor commences so to apply it. This is an assent to the whole of the bequest.

(iii) A bequest is made of a fund to A and after him to B. The executor pays the interest of the fund to A. This is an implied assent to the bequest to B.

(iv) Executors die after paying all the debts of the testator, but before satisfaction of specific legacies. Assent to the legacies may be presumed.

(v) A person to whom a specific article has been bequeathed takes possession of it and retains it without any objection on the part of the executor. His assent may be presumed.

334. The assent of an executor or administrator to a legacy may be conditional, and if the condition is one which he has a right to enforce, and it is not performed, there is no assent.



*Illustrations.*

(i) A bequeaths to B his lands of Sultanpur, which at the date of the will, and at the death of A, were subject to a mortgage for 10,000 rupees. The executor assents to the bequest on condition that B shall within a limited time pay the amount due on the mortgage at the testator's death. The amount is not paid. There is no assent.

(ii) The executor assents to a bequest on condition that the legatee shall pay him a sum of money. The payment is not made. The assent is nevertheless valid.

335. (1) When the executor or administrator is a legatee, his assent to his own legacy is necessary to complete his title to it, in the same way as it is required when the bequest is to another person, and his assent may, in like manner, be expressed or implied.

(2) Assent shall be implied if in his manner of administering the property he does any act which is referable to his character of legatee and is not referable to his character of executor or administrator.

*Illustration.*

An executor takes the rent of a house or the interest of Government securities bequeathed to him, and applies it to his own use. This is assent.

336. The assent of the executor or administrator to a legacy gives effect to it from the death of the testator.

*Illustrations.*

(i) A legatee sells his legacy before it is assented to by the executor. The executor's subsequent assent operates for the benefit of the purchaser and completes his title to the legacy.

(ii) A bequeaths 1,000 rupees to B with interest from his death. The executor does not assent to his legacy until the expiration of a year from A's death. B is entitled to interest from the death of A.

337. An executor or administrator is not bound to pay or deliver any legacy until the expiration of one year from the testator's death.

*Illustration.*

A by his will directs his legacies to be paid within six months after his death. The executor is not bound to pay them before the expiration of a year.

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## CHAPTER IX.

### OF THE PAYMENT AND APPORTIONMENT OF ANNUITIES.

338. Where an annuity is given by a will, and no time is fixed for its commencement, it shall commence from the testator's death, and the first payment shall be made at the expiration of a year next after that event.

339. Where there is a direction that the annuity shall be paid quarterly or monthly, the first payment shall be due at the end of the first quarter or first month, as the case may be, after the testator's death ; and shall, if the executor or administrator thinks fit, be paid when due, but the executor or administrator shall not be bound to pay it till the end of the year.

When annuity, to be paid quarterly or monthly, first falls due.

340. (1) Where there is a direction that the first payment of an annuity shall be made within one month or any other division of time from the death of the testator, or on a day certain, the successive payments are to be made on the anniversary of the earliest day on which the will authorises the first payment to be made.

Dates of successive payments when first payment directed to be made within a given, time or on day certain death of annuitant before date of payment.

(2) If the annuitant dies in the interval between the times of payment, an apportioned share of the annuity shall be paid to his representative.

## CHAPTER X.

### OF THE INVESTMENT OF FUNDS TO PROVIDE FOR LEGACIES.

341. When a legacy, not being a specific legacy, is given for life, the sum bequeathed shall at the end of the year be invested in such securities as the High Court may by any general rule authorize or direct, and the proceeds thereof shall be paid to the legatee as the same shall accrue due.

Investment of sum bequeathed where legacy, not specific, given for life.

342. (1) Where a general legacy is given to be paid at a future time, the executor or administrator shall invest a sum sufficient to meet it in securities of the kind mentioned in section 341.

Investment of general legacy, to be paid at future time : disposal of intermediate interest.

(2) The intermediate interest shall form part of the residue of the testator's estate.

343. Where an annuity is given and no fund is charged with its payment or appropriated by the will to answer it, a Government annuity of the specified amount shall be purchased, or, if no such annuity can be obtained, then a sum sufficient to produce the annuity shall be invested for that purpose in securities of the kind mentioned in section 341.

Procedure when no fund charged with, or appropriated to annuity.

344. Where a bequest is contingent, the executor or administrator is not bound to invest the amount of the legacy, but may transfer the whole residue of the estate to the residuary legatee, if any, on his giving sufficient security for the payment of the legacy if it shall become due.

Transfer to residuary legatee of contingent bequest.

345. (1) Where the testator has bequeathed the residue of his estate to a person for life without any direction to invest it in any particular securities, so much thereof as is not at the time of the testator's decease invested in securities of the kind mentioned in section 341 shall be converted into money and invested in such securities.

(2) This section shall not apply if the deceased was a Hindu, Muhamadan, Buddhist, Sikh or Jaina or an exempted person.

346. Where the testator has bequeathed the residue of his estate to a person for life with a direction that it shall be invested in certain specified securities, so much of the estate as is not at the time of his death invested in securities of the specified kind shall be converted into money and invested in such securities.

347. Such conversion and investment as are contemplated by sections 345 and 346 shall be made at such times and in such manner as the executor or administrator thinks fit ; and, until such conversion and investment are completed, the person who would be for the time being entitled to the income of the fund when so invested shall receive interest at the rate of four per cent. per annum upon the market-value (to be computed as at the date of the testator's death) of such part of the fund as has not been so invested :

Provided that the rate of interest prior to completion of investment shall be six per cent per annum when the testator was a Hindu, Muhamadan, Buddhist, Sikh or Jaina or an exempted person.

348. (1) Where, by the terms of a bequest, the legatee is entitled to the immediate payment or possession of the money or thing bequeathed, but is a minor, and there is no direction in the will to pay it to any person on his behalf, the executor or administrator shall pay or deliver the same into the Court of the District Judge, by whom or by whose District Delegate the probate was, or letters of administration with the will annexed were, granted, to the account of the legatee, unless the legatee is a ward of the Court of Wards.

(2) If the legatee is a ward of the Court of Wards, the legacy shall be paid to the Court of Wards to his account.

(3) Such payment into the Court of the District Judge, or to the Court of Wards, as the case may be, shall be a sufficient discharge for the money so paid.

(4) Money when paid in under this section shall be invested in the purchase of Government securities, which, with the interest thereon, shall be transferred or paid to the person entitled thereto, or otherwise applied for his benefit, as the Judge or the Court of Wards, as the case may be, may direct.

## CHAPTER XI.

## OF THE PRODUCE AND INTEREST OF LEGACIES.

Legatee's title to produce of specific legacy. 349. The legatee of a specific legacy is entitled to the clear produce thereof, if any, from the testator's death.

*Exception.*—A specific bequest, contingent in its terms, does not comprise the produce of the legacy between the death of the testator and the vesting of the legacy. The clear produce of it forms part of the residue of the testator's estate.

*Illustrations.*

(i) A bequeaths his flock of sheep to B. Between the death of A and delivery by his executor the sheep are shorn or some of the ewes produce lambs. The wool and lambs are the property of B.

(ii) A bequeaths his Government securities to B, but postpones the delivery of them till the death of C. The interest which falls due between the death of A and the death of C belongs to B, and must, unless he is a minor, be paid to him as it is received.

(ii) The testator bequeaths all his four percent. Government promissory notes to A when he shall complete the age of 18. A, if he completes that age, is entitled to receive the notes, but the interest which accrues in respect of them between the testator's death and A's completing 18, forms part of the residue.

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350. The legatee under a general residuary bequest is entitled to the produce of the residuary fund from the testator's death.

Residuary legatee's title to produce of residuary fund.

*Exception.*—A general residuary bequest contingent in its terms does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy. Such income goes as undisposed of.

*Illustrations.*

(i) The testator bequeaths the residue of his property to A, a minor, to be paid to him when he shall complete the age of 18. The income from the testator's death belongs to A.

(ii) The testator bequeaths the residue of his property to A, when he shall complete the age of 18. A, if he completes that age, is entitled to receive the residue. The income which has accrued in respect of it since the testator's death goes as undisposed of.

351. Where no time has been fixed for the payment of a general legacy, interest begins to run from expiration of one year from the testator's death.

Interest when no time fixed for payment of general legacy.

*Exception.*—(1) Where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator.

(2) Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, the legacy shall bear interest from the death of the testator.

(3) Where a sum is bequeathed to a minor with a direction to pay for his maintenance out of it, interest is payable from the death of the testator.

352. Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed. The interest up to such time forms part of the residue of the testator's estate.

*Exception*—Where the testator was a parent or a more remote ancestor of the legatee, or his put himself in the place of a parent of the legatee and the legatee is a minor, the legacy shall bear interest from the death of the testator, unless a specific sum is given by the will for maintenance or unless the will contains a direction to the contrary.

353. The rate of interest shall be four per cent. per annum in all cases except when the testator was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, in which case it shall be six per cent. per annum.

No interest on arrears of annuity within first year after testator's death.

354. No interest is payable on the arrears of an annuity within the first year from the death of the testator, although a period earlier than the expiration of that year may have been fixed by the will for making the first payment of the annuity.

Interest on sum to be invested to produce annuity.

355. Where a sum of money is directed to be invested to produce an annuity, interest is payable on it from the death of the testator.

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## CHAPTER XII.

### OF THE REFUNDING OF LEGACIES.

356. When an executor or administrator has paid a legacy under the order of a Court, he is entitled to call upon the legatee to refund in the event of the assets proving insufficient to pay all the legacies.

No refund if paid voluntarily.

357. When an executor or administrator has voluntarily paid a legacy, he cannot call upon a legatee to refund in the event of the assets proving insufficient to pay all the legacies.

358. When the time prescribed by the will for the performance of a condition has elapsed, without the condition having been performed, and the executor or administrator has thereupon, without fraud, distributed the assets; in such case, if further time has been allowed under section 137 for the performance of the condition, and the condition has been performed accordingly, the legacy cannot be claimed from the executor or administrator, but those to whom he has paid it are liable to refund the amount.

359. When the executor or administrator has paid away the assets in legacies, and he is afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

When each legatee compellable to refund in proportion.

360. Where an executor or administrator has given such notices as the High Court may, by any general rule, prescribe or, if no such rule has been made, as the High Court would give in an administration suit, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets, or any part thereof, in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he shall not have had notice at the time of such distribution :

Distribution of assets.

Provided that nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, in the hands of the persons who may have received the same respectively.

361. A creditor who has not received payment of his debt may call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies; and whether the payment of the legacy by the executor or administrator was voluntary or not.

Creditor may call upon legatee to refund.

362. If the assets were sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, or who has been compelled to refund under section 361, cannot oblige one who has received payment in full to refund, whether the legacy were paid to him with or without suit, although the assets have subsequently become deficient by the wasting of the executor.

When legatee, not satisfied or compelled to refund under section 361, cannot oblige one paid in full to refund.

363. If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy must, before he can call on a satisfied legatee to refund, first proceed against the executor or administrator if he is solvent; but if the executor or administrator is insolvent, the legatee must first proceed against the executor or administrator if solvent.

When unsatisfied legatee must first proceed against executor, if solvent.

tor is insolvent or not liable to pay, the unsatisfied legatee can oblige each satisfied legatee to refund in proportion.

364. The refunding of one legatee to another shall not exceed the sum by which the satisfied legacy ought to have been reduced if the estate had been properly administered.

Limit to refunding of one legatee to another.

*Illustration.*

A has bequeathed 240 rupees to B, 480 rupees to C, and 720 rupees to D. The assets are only 1,200 rupees and, if properly administered, would give 200 rupees to B, 400 rupees to C, and 600 rupees to D. C and D have been paid their legacies in full, leaving nothing to B. B can oblige C to refund 80 rupees and D to refund 120 rupees.

Refunding to be without interest.

365. The refunding shall in all cases be without interest.

Residue after usual payments to be paid to residuary legatee.

366. The surplus or residue of the deceased's property, after payment of debts and legacies, shall be paid to the residuary legatee when any has been appointed by the will.

367. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there has been a grant of probate or letters of administration in British India with respect to the assets there and a grant of administration in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 360, and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.

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## CHAPTER XIII.

### OF THE LIABILITY OF AN EXECUTOR OR ADMINISTRATOR FOR DEVASTATION.

Liability of executor or administrator for devastation.

368. When an executor or administrator misapplies the estate of the deceased, or subjects it to loss or damage, he is liable to make good the loss or damage so occasioned.

*Illustrations.*

(i) The executor pays out of the estate an unfounded claim. He is liable to make good the loss.

(ii) The deceased had a valuable lease renewable by notice which the executor neglects to give at the proper time. The executor is liable to make good the loss.

(iii) The deceased had a lease of less value than the rent payable for it, but terminable on notice at a particular time. The executor neglects to give the notice. He is liable to make good the loss.

Liability of executor or administrator for neglect to get in any part of property.

369. When an executor or administrator occasions a loss to the estate by neglecting to get in any part of the property of the deceased, he is liable to make good the amount.

*Illustrations.*

(i) The executor absolutely releases a debt due to the deceased from a solvent person, or compounds with a debtor who is able to pay in full. The executor is liable to make good the amount.

(ii) The executor neglects to sue for a debt till the debtor is able to plead that the claim is barred by limitation and the debt is thereby lost to the estate. The executor is liable to make good the amount.

---

## PART X.

### SUCCESSION CERTIFICATES.

370 (1) A succession certificate (hereinafter in this part referred to as a certificate) shall not be granted under this Part with respect to any debt or security to which a right is required by section 212 or section 213 to be established by letters of administration or probate :

Provided that nothing contained in this section shall be deemed to prevent the grant of a certificate to any person claiming to be entitled to the effects of a deceased Indian Christian, or to any part thereof, with respect to any debt or security, by reason that a right thereto can be established by letters of administration under this Act.

(2) For the purposes of this Part, "security" means—

- (a) any promissory note, debenture, stock or other security of the Government of India or of a Local Government ;
- (b) any bond, debenture, or annuity charged by Act of Parliament on the revenues of India ;
- (c) any stock or debenture of, or share in, a company or other incorporated institution ;



(d) any debenture or other security for money issued by, or on behalf of a local authority ;

(e) any other security which the Governor General in Council may, by notification in the Gazette of India, declare to be a security for the purposes of this Part.

371. The District Judge within whose jurisdiction the deceased ordinarily resided at the time of his death, or, if at that time he had no fixed place of residence, the District Judge, within whose jurisdiction any part of the property of the deceased may be found, may grant a certificate under this Part.

372. (1) Application for such a certificate shall be made to the District Judge by a petition signed and verified by or on behalf of the applicant in the manner prescribed by the Code of Civil Procedure, 1908,\* for the signing and verification of a plaint by or on behalf of a plaintiff, and setting forth the following particulars, namely :—

(a) the time of the death of the deceased ;

(b) the ordinary residence of the deceased at the time of his death and, if such residence was not within the local limits of the jurisdiction of the Judge to whom the application is made, then the property of the deceased within those limits ;

(c) the family or other near relatives of the deceased and their respective residences ;

(d) the right in which the petitioner claims ;

(e) the absence of any impediment under section 370 or under any other provision of this Act or any other enactment, to the grant of the certificate or to the validity thereof if it were granted ; and

(f) the debts and securities in respect of which the certificate is applied for.

(2) If the petition contains any averment which the person verifying it knows or believes to be false, or does not believe to be true, that person shall be deemed to have committed an offence under section 193 of the Indian Penal Code.

373. (1) If the District Judge is satisfied that there is ground for entertaining the application, he shall fix a day for the hearing thereof and cause notice of the application and of the day fixed for the hearing—

(a) to be served on any person to whom, in the opinion of the Judge, special notice of the application should be given, and

- (b) to be posted on some conspicuous part of the court-house and published in such other manner, if any, as the Judge, subject to any rules made by the High Court in this behalf, thinks fit,

and upon the day fixed, or as soon thereafter as may be practicable, shall proceed to decide in a summary manner the right to the certificate.

(2) When the Judge decides the right thereto to belong to the applicant, the Judge shall make an order for the grant of the certificate to him.

(3) If the Judge cannot decide the right to the certificate without determining questions of law or fact which seem to him to be too intricate and difficult for determination in a summary proceeding, he may nevertheless grant a certificate to the applicant if he appears to be the person having *Prima facie* the best title thereto.

(4) Where there are more applicants than one for a certificate, and it appears to the Judge that more than one of such applicants are interested in the estate of the deceased, the Judge may, in deciding to whom the certificate is to be granted, have regard to the extent of interest and the fitness in other respects of the applicants.

374. When the District Judge grants a certificate, he shall therein specify the debts and securities set forth in the Contents of certificate. application for the certificate, and may thereby empower the person to whom the certificate is granted—

- (a) to receive interest or dividends on, or
- (b) to negotiate or transfer, or
- (c) both to receive interest or dividends on, and to negotiate or transfer, the securities or any of them.

375. (1) The District Judge shall in any case in which he proposes to proceed under sub-section (3) or sub-section (4) of section 373 and may, in any other case, require, as a condition precedent to the granting of a certificate, that the person to whom he proposes to make the grant shall give to the Judge a bond with one or more surety or sureties or other sufficient security, for rendering an account of debts and securities received by him and for indemnity of persons who may be entitled to the whole or any part of those debts and securities.

(2) The Judge may, on application made by petition and on cause shown to his satisfaction, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise, as he thinks fit, assign the bond or other security to some proper person, and that person shall thereupon be entitled to sue thereon in his own name as if it had been originally given to him instead of to the Judge of the Court, and to recover, as trustee for all persons interested, such amount as may be recoverable thereunder.

376. (1) A District Judge may, on the application of the holder of a certificate under this Part, extend the certificate to any debt or security not originally specified therein, and every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originally specified therein.

Extension of certificate.

(2) Upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation or transfer of, any security to which the certificate has been extended may be conferred, and a bond or further bond or other security for the purposes mentioned in section 375 may be required, in the same manner as upon the original grant of a certificate.

377. Certificates shall be granted and extensions of certificates shall be made, as nearly as circumstances admit in the forms set forth in Schedule VIII.

Forms of certificate and extended certificate.

378. Where a District Judge has not conferred on the holder of a certificate any power with respect to a security specified in the certificate, or has only empowered him to receive interest or dividends on, or to negotiate or transfer, the security, the Judge may, on application made by petition and on cause shown to his satisfaction, amend the certificate by conferring any of the powers mentioned in section 374 or by substituting any one for any other of those powers.

Amendment of certificate in respect of powers as to securities.

379. (1) Every application for a certificate or for the extension of a certificate shall be accompanied by a deposit of a sum equal to the fee payable under the Court-fees Act, 1870, in respect of the certificate or extension applied for.

Mode of collecting Court-fees on certificates.

(2) If the application is allowed, the sum deposited by the applicant shall be expended, under the direction of the Judge, in the purchase of the stamp to be used for denoting the fee payable as aforesaid.

(3) Any sum received under sub-section (1) and not expended under sub section (2) shall be refunded to the person who deposited it.

380. A certificate under this Part shall have effect throughout the whole of British India

Local extent of certificate.

381. Subject to the provisions of this Part, the certificate of the District Judge shall, with respect to the debts and securities specified therein, be conclusive as against the persons owing such debts or liable on such securities, and shall, notwithstanding any contravention of section 370, or other defect, afford full indemnity to all such persons as regards all payments made, or dealings had, in good faith in respect of such debts or securities to or with the person to whom the certificate was granted.

Effect of certificate.

382. Where a certificate in the form, as nearly as circumstances admit, of Schedule VIII has been granted to a resident within a Foreign State by the British representative accredited to the State, or where a certificate so granted has been extended in such form by such representative, the certificate shall, when stamped in accordance with the provisions of the Court fees Act, 1870, with respect to certificates under this Part, have the same effect in British India as a certificate granted or extended under this Part.

Revocation of certificate.

383. A certificate granted under this Part may be revoked for any of the following causes, namely :—

- (a) that the proceedings to obtain the certificate were defective in substance ;
- (b) that the certificate was obtained fraudulently by the making of a false suggestion, or by the concealment from the Court of something material to the case ;
- (c) that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently ;
- (d) that the certificate has become useless and inoperative through circumstances ;
- (e) that a decree or order made by a competent Court in a suit or other proceeding with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.

384. (1) Subject to the other provisions of this Part, an appeal shall lie to the High Court from an order of a District Judge granting, refusing or revoking a certificate under this Part, and the High Court may, if it thinks fit, by its order on the appeal, declare the person to whom the certificate should be granted and direct the District Judge, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted.

(2) A appeal under sub-section (1) must be preferred within the time allowed for an appeal under the Code of Civil Procedure, 1908.

(3) Subject to the provisions of sub-section (1) and to the provisions as to reference to and revision by the High Court and as to review of judgment of the Code of Civil Procedure, 1908, as applied by section 141 of that Code, an order of a District Judge under this Part shall be final.

385. Save as provided by this Act, a certificate granted thereunder in respect of any of the effects of a deceased person shall be invalid if there has been a previous grant of such a certificate or of probate or letters of administration in respect of the estate of the deceased person and if such previous grant is in force.

Effect on certificate of previous certificate probate or letters of administration.

**386.** Where a certificate under this Part has been superseded or is invalid by reason of the certificate having been revoked under section 383, or by reason of the grant of a certificate to a person named in an appellate order under section 384, or by reason of a certificate having been previously granted, or for any other cause, all payments made, or dealings had, as regards debts and securities specified in the superseded or invalid certificate, to or with the holder of that certificate in ignorance of its supersession or invalidity, shall be held good against claims under any other certificate.

**387.** No decision under this Part upon any question of right between any parties shall be held to bar the trial of the same question in any suit or in any other proceeding between the same parties, and nothing in this Part shall be construed to affect the liability of any person who may receive the whole or any part of any debt or security, or any interest or dividend on any security, to account therefor to the person lawfully entitled thereto.

**388. (1)** The Local Government may, by notification in the local official Gazee, invest, any Court inferior in grade to a District Judge with power to exercise the functions of a District Judge under this part.

**(2)** Any inferior Court so invested shall, within the local limits of its jurisdiction, have concurrent jurisdiction with the District Judge in the exercise of all the powers conferred by this Part upon the District Judge, and the provisions of this Part relating to the District Judge shall apply to such an inferior Court as if it were a District judge :

Provided that an appeal from any such order of an inferior Court as is mentioned in sub section (1) of section 384 shall lie to the District Judge, and not to the High Court, and that the District Judge may if he thinks fit, by his order on the appeal, make any such declaration and direction as that sub-section authorises the High Court to make by its order on an appeal from an order of a District Judge.

**(3)** An order of a District Judge on an appeal from an order of an inferior Court under the last foregoing sub-section shall, subject to the provisions as to reference to and revision by the High Court and as to review of judgment of the Code of Civil Procedure, 1908, as applied by section 141 of that Code, be final.

**(4)** The District Judge may withdraw any proceedings under this Part from an inferior Court and may either himself dispose of them or transfer them to another such Court established within the local limits of the jurisdiction of the District Judge and having authority to dispose of the proceedings.

**(5)** A notification under sub-section (1) may specify any inferior Court specially or any class of such Courts in any local area.

(6) Any Civil Court which for any of the purposes of any enactment is subordinate to, or subject to the control of, a District Judge shall for the purposes of this section be deemed to be a Court inferior in grade to a District Judge.

389. (1) When a certificate under this Part has been superseded or is invalid from any of the causes mentioned in section 386, the holder thereof shall, on the requisition of the Court which granted it, deliver it up to that Court.

(2) If he wilfully and without reasonable cause omits so to deliver it up, he shall be punishable with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

390. Notwithstanding any thing in Bombay Regulation No. VIII of 1827, the provisions of section 370, sub-section (2), section 372, sub-section (1), clause (f), and sections 374, 375, 376, 377, 378, 379, 381, 383, 384, 387, 388 and 389 with respect to certificates under this Part and applications therefor, and of section 317 with respect to the exhibition of inventories and accounts by executors and administrators, shall, so far as they can be made applicable, apply, respectively, to certificates granted under that Regulation, and applications made for certificates thereunder, after the 1st day of May, 1889, and to the exhibition of inventories and accounts by the holders of such certificates so granted.

## PART XI.

### MISCELLANEOUS.

Saving. 391. Nothing in Part VIII. Part IX or Part X shall —

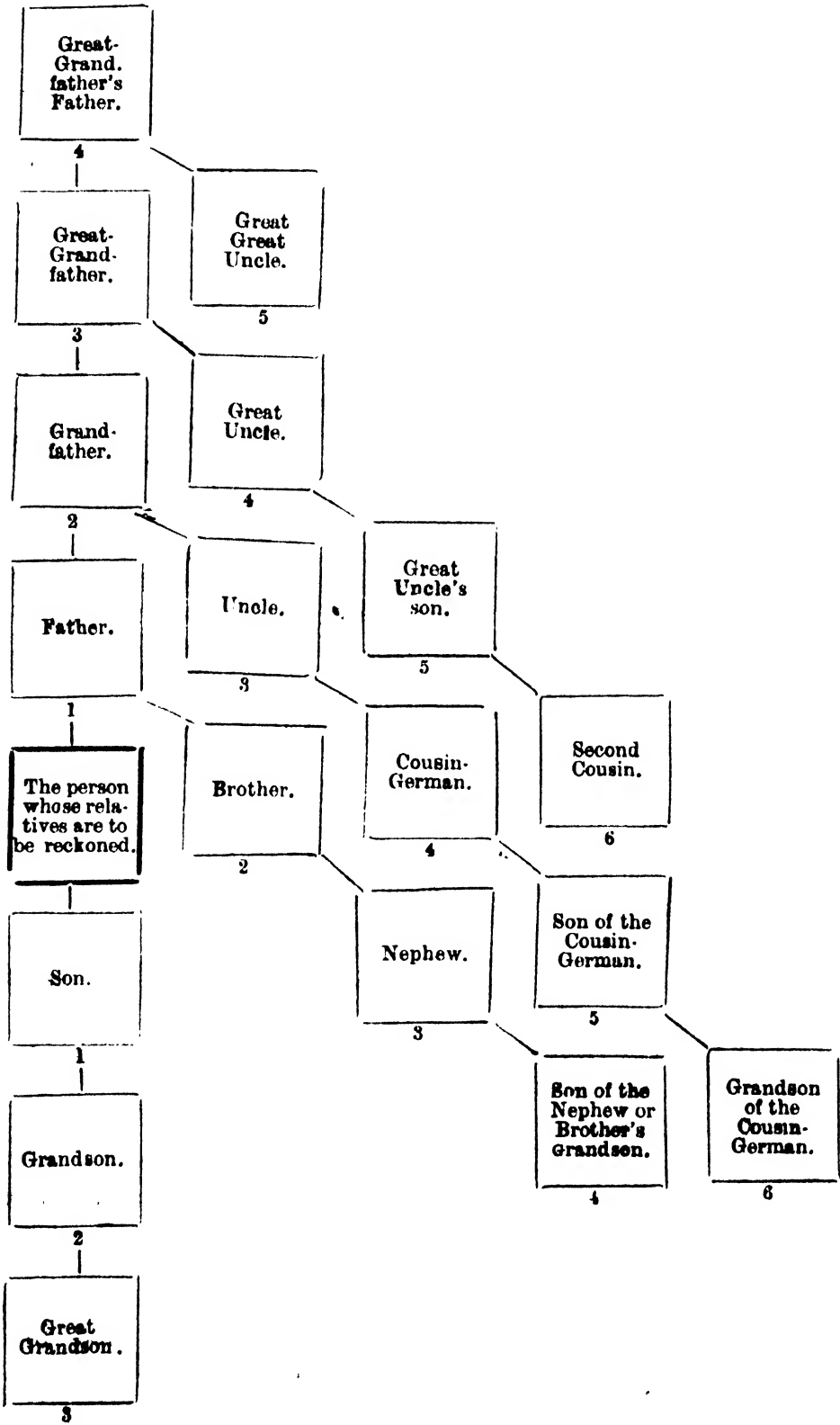
- (i) validate any testamentary disposition which would otherwise have been invalid ;
- (ii) invalidate any such disposition which would otherwise have been valid ;
- (iii) deprive any person of any right of maintenance to which he would otherwise have been entitled ; or
- (iv) affect the Administrator General's Act, 1913.

Repeals. 392. The enactments mentioned in Schedule IX are hereby repealed to the extent specified in the third column thereof.

SCHEDULE I.

(See section 28.)

TABLE OF CONSANGUINITY.



## SCHEDULE II.

## PART I.

(See section 55.)

(1) Brothers and sisters, and the children or lineal descendants of such of them as shall have predeceased the intestate.

(2) Grandfather and grandmother.

(3) Grandfather's sons and daughters, and the lineal descendants of such of them as have predeceased the intestate.

(4) Great-grandfather and great-grandmother.

(5) Great-grandfather's sons and daughters and the lineal descendants of such of them as have predeceased the intestate.



## PART II.

(See section 56.)

(1) Father and mother.

(2) Brothers and sisters and the lineal descendants of such of them as have predeceased the intestate.

(3) Paternal grandfather and paternal grandmother.

(4) Children of the paternal grandfather, and the lineal descendants of such of them as have predeceased the intestate.

(5) Paternal grandfather's father and mother.

(6) Paternal grandfather's father's children and the lineal descendants of such of them as have predeceased the intestate.

(7) Brothers and sisters by the mother's side and the lineal descendants of such of them as have predeceased the intestate.

(8) Maternal grandfather and maternal grandmother.

(9) Children of the maternal grandfather, and the lineal descendants of such of them as have predeceased the intestate.

(10) Son's widow, if she has not re-married at or before the death of the intestate.

(11) Brother's widow, if she has not re-married at or before the death of the intestate.

(12) Paternal grandfathers's son's widow, if she has not re-married at or before the death of the intestate.

(13) Maternal grandfather's son's widow, if she has not re-married at or before the death of the intestate.

(14) Widowers of the intestate's deceased daughters if they have not re-married at or before the death of the intestate.

(15) Maternal grandfather's father and mother.



(16) Children of the maternal grandfather's father, and the lineal descendants of such of them as have predeceased the intestate.

(17) Paternal grandmother's father and mother.

(18) Children of the paternal grandmother's father, and the lineal descendants of such of them as have predeceased the intestate.

### SCHEDULE III.

(See section 57.)

#### PROVISIONS OF PART VI APPLICABLE TO CERTAIN WILLS AND CODICILS DESCRIBED IN SECTION 57.

Sections 59, 61, 62, 63, 64, 68, 70, 71, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 95, 96, 98, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189 and 190.

#### *Restrictions and modifications in application of foregoing sections.*

1. Nothing therein contained shall authorise a testator to bequeath property which he could not have alienated *inter vivos*, or to deprive any persons of any right of maintenance of which, but for the application of these sections, he could not deprive them by will.

2. Nothing therein contained shall authorise any Hindu, Buddhist, Sikh or Jaina, to create in property any interest which he could not have created before the first day of September, 1870.

3. Nothing therein contained shall affect any law of adoption or intestate succession.

4. In applying section 70 the words "than by marriage or" shall be omitted.

5. In applying any of the following sections, namely, sections seventy-five, seventy-six, one hundred and five, one hundred and nine, one hundred and eleven, one hundred and twelve, one hundred and thirteen, one hundred and fourteen, one hundred and fifteen, one hundred and sixteen to such wills and codicils the words "son," "sons," "child," and "children" shall be deemed to include an adopted child; and the word "grand-children" shall be deemed to include the children, whether adopted or natural-born, of a child whether adopted or natural-born; and the expression "daughter-in-law" shall be deemed to include the wife of an adopted son.

## SCHEDULE IV.

[See section 274 (2) ]

## FORM OF CERTIFICATE,

I, A. B., Reristrar (*or as the case may be*) of the High Court of Judicature at \_\_\_\_\_ (*or as the case may be*) hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, the High Court of Judicature at \_\_\_\_\_ (*or as the case may be*) granted probate of the will (*or letters of administration of the estate*) of C. D., late of \_\_\_\_\_, deceased, to E. F. of \_\_\_\_\_ and G. H. of \_\_\_\_\_, and that such probate (*or letters*) has (*or have*) effect over all the property of the deceased throughout the whole of British India.

## SCHEDULE V.

[See section 284 (4).]

## FORM OF CAVEAT.

Let nothing be done in the matter of the estate of A. B., late of \_\_\_\_\_, deceased, who died on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_, without notice to C. D. of \_\_\_\_\_.

## SCHEDULE VI.

(See section 289.)

## FORM OF PROBATE.

I, \_\_\_\_\_, Judge of the District of \_\_\_\_\_ [*or Delegate appointed for granting probate or letters of administration in (here insert the limits of the Delegate's jurisdiction)*], hereby make known that on the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, the last will of \_\_\_\_\_, late of \_\_\_\_\_, a copy whereof is hereunto annexed, was proved and registered before me, and that administration of the property and credits of the said deceased, and in any way concerning his will was granted to \_\_\_\_\_, the executor in the said will named, he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may, from time to time, appoint, and also to render to this Court a true account of the said property and credits within one year from the same date, or within such further time as the Court may, from time to time, appoint.



*Securities.*

Serial number.	DESCRIPTION.			Market-value of security on date of application for certificate.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This certificate is accordingly granted to you and empowers you to collect those debts [ and ] [ to receive ] [ interest ] [ dividends ] [ on ] [ to negotiate ] [ to transfer ] [ those securities ].

Dated this                  day of                  ,

*District Judge.*

In the Court of

On the application of *A. B.* made to me on the                  day of                  , I hereby extend this certificate to the following debts and securities, namely :

*Debts.*

Serial number.	Name of debtor.	DESCRIPTION.	
		Amount of debt, including interest, on date of application for extension.	Description and date of instrument, if any, by which the debt is secured.

*Securities.*

Serial number.	DESCRIPTION.			Market-value of security on date of application for extension.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This extension empowers *A. B.* to collect those debts [and] [to receive] [interest] [dividends] [on] [to negotiate] [to transfer] [those securities].

Dated this                      day of

*District Judge.*

## SCHEDULE IX.

(See section 392.)

## ENACTMENTS REPEALED.

Number and Year.	Short title.	Extent of repeal.
XIX of 1841    ...	The Succession (Property Protection) Act, 1841.	So much as has not already been repealed.
X of 1865        ...	The Indian Succession Act, 1865.	So much as has not already been repealed.
XXI of 1865    ...	The Parsi Intestate Succession Act, 1865.	The whole Act.
XXI of 1870    ...	The Hindu Wills Act, 1870.	So much as has not already been repealed.

SCHEDULE IX.—*concl'd.*

(See section 392.)

ENACTMENTS REPEALED.—*concl'd.*

Number and Year.	Short title.	Extent of repeal.
III of 1874 ...	The Married Woman's Property Act, 1874.	The last paragraph of section 2.
V of 1881 ...	The Probate and Administration Act, 1881.	So much as has not already been repealed.
VI of 1881 ...	The District Delegates Act, 1881.	The whole Act.
VI of 1889 ...	The Probate and Administration Act, 1889.	So much as has not already been repealed.
VII of 1889 ...	The Succession Certificate Act, 1889.	So much as is unrepealed, except section 13.
II of 1890 ...	The Probate and Administration Act, 1890.	So much as has not already been repealed.
VII of 1901 ...	The Native Christian Administration of Estates Act, 1901.	So much as has not already been repealed.
VIII of 1903 ...	The Probate and Administration Act, 1903.	So much as has not already been repealed.
XVIII of 1919 ...	The Repealing and Amending Act, 1919.	So much of Schedule I as refers to Act X of 1865 or to Act V of 1881.
XXXVIII of 1920	The Devolution Act, 1920.	So much of Schedule I as refers to Act X of 1865 or to Act V of 1881.



**ACTS**  
**OF**  
**Indian Legislature**  
**FOR**  
**1926.**

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Compiled by  
**NRISINHADAS BASU, B. L.,**  
**VAKIL.**

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## TABLE OF CONTENTS.

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	PAGE
1. The Small Cause Courts (Attachment of Immovable Property) Act, 1926 ... ..	1
2. The Code of Criminal Procedure (Amendment) Act, 1926...	3
3. The Government Trading Taxation Act, 1926 ... ..	4
4. The Guardians and Wards (Amendment) Act, 1926 ... ..	5
5. The Indian Lunacy (Amendment) Act, 1926 ... ..	7
6. The Code of Civil Procedure (Amendment) Act, 1926 ... ..	9
7. The Indian Naturalisation Act, 1926 ... ..	10
8. The Steel Industry (Amendment) Act, 1926 ... ..	17
9. The Insolvency (Amendment) Act, 1925 ... ..	19
10. The Code of Criminal Procedure (Second Amendment) Act	21
11. The Promissory Notes (Stamp) Act, 1926 ... ..	22
12. The Contempt of Courts of Act, 1926 ... ..	23
13. The Indian Registration (Amendment) Act ... ..	24
14. The Madras Civil Courts (Amendment) Act, 1926 ... ..	25
15. The Legal Practitioners (Amendment) Act, 1926 ... ..	25
16. The Indian Trade Unions Act, 1926 ... ..	27
17. The Indian Tariff (Amendment) Act ... ..	37
18. The Madras Civil Court (Second Amendment) Act, 1926 ...	40
19. The Indian Finance Act, 1926 ... ..	41
20. The Cotton Industry (Statistics) Act, 1926 ... ..	44
21. The Legal Practitioners (Fees) Act, 1926 ... ..	47
22. The Code of Civil Procedure (Second Amendment) Act ...	48
23. The Delhi Joint Water Board Act, 1926 ... ..	50
24. The Indian Income Tax (Amendment) Act, 1926 ... ..	62
25. The Indian Divorce (Amendment) Act, 1926 ... ..	65
26. The Indian Factories (Amendment) Act, 1926 ... ..	65
27. The Transfer of Property (Amendment) Act, 1926 ... ..	70
28. The Usurious Loans (Amendment) Act, 1926 ... ..	70
29. The Workmen's Compensation (Amendment) Act, 1926 ...	71
30. The Negotiable Instruments (Interest) Act, 1926 ... ..	72
31. The Indian Evidence (Amendment) Act, 1926 ... ..	73
32. The Administrator General's Act, (Amendment) Act ...	73

			PAGE.
33.	The Indian Companies (Amendment) Act	...	74
34.	The Sind Courts (Supplementary) Act	...	74
35.	The Cantonments (Amendment) Act	...	78
36.	The Code of Criminal Procedure (Third Amendment) Act		
	1926	...	80
37.	The Indian Succession (Amendment) Act, 1926	...	81
38.	The Indian Bar Council Act, 1926	...	81
39.	The Provincial Insolvency (Amendment) Act, 1926	...	90
40.	The Indian Succession (Amendment) Act	...	91

# ACTS

OF

## INDIAN LEGISLATURE FOR 1926.

### ACT NO. I OF 1926.

*Received the Assent of the Governor General on the 24th February, 1926.*

**An Act to resolve certain doubts as to the powers, in regard to the attachment of immoveable property, of Provincial Small Cause Courts.**

WHEREAS it is expedient further to amend the Provincial Small Cause Courts Act, 1887,\* and the Code of Civil Procedure, 1908,† for the purpose of resolving certain doubts which have arisen as to the powers, in regard to the attachment of immoveable property, of Courts constituted under the Provincial Small Cause Courts Act, 1887,\* and of Courts exercising the jurisdiction of a Court of Small Causes under that Act; It is hereby enacted as follows :—

**1.** This Act may be called the Small Cause Courts (Attachment of Short title. Immoveable Property) Act, 1926.

**2.** (1) In sub section (1) of section 17 of the Provincial Small Cause Courts Act, 1887,\* for the words beginning with the words " The Procedure " and ending with the words " are applicable " the following shall be substituted, namely :—

Amendment of section 17, Act IX of 1887.

" The procedure prescribed in the Code of Civil Procedure, 1908,† shall, save in so far as is otherwise provided by that Code or by this Act."

(2) In sub-section (2) of the same section, for the figures " 253 " the figures " 145 " shall be substituted, and after the words " Code of Civil Procedure " the figures " 1908 " shall be added.

**3** In clause (b) of section 7 of the Code of Civil Procedure, 1908† (hereinafter referred to as the said Code), for the words " so far as they relate to injunctions and interlocutory orders " the following shall be substituted, namely :—

Amendment of section 7, Act V of 1908

" so far as they authorise or relate to—

- (i) orders for the attachment of immoveable property,
- (ii) injunctions,

- (iii) the appointment of a receiver of immoveable property, or
- (iv) the interlocutory orders referred to in clause (e) of section 94."

Amendment of Order XXXVIII in the First Schedule to Act V of 1908. 4. To Order XXXVIII in the First Schedule to the said Code, after rule 12 the following rule shall be added, namely :—

" 13. Nothing in this order shall be deemed to empower any Court of Small Causes to make an order for the attachment of immoveable property. Small Cause Court not to attach immoveable property."

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**ACT NO. II OF 1926.**

*Received the Assent of the Governor General on the 24th February, 1926.*

**An Act further to amend the Code of Criminal  
Procedure, 1898.**

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898,\* for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title. **I. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1926.**

Amendment of section 170, Act V of 1908.      2. Sub-section (4) of section 170 of the said Code is hereby repealed.

3. In proviso (b) to section 200 of the said Code, after the words "thinks fit, and" the words "where the complaint is made in writing" shall be inserted.

4. For the proviso to sub-section (1) of section 202 of the said Amendment of section Code the following proviso shall be substituted, 202, Act V of 1898. namely :—

" Provided that, save where the complaint has been made by a Court, no such direction shall be made unless the complainant has been examined on oath under the provisions of section 200."

5. In section 203 of the said Code, for the words "any investigation" the words "the investigation" shall be substituted; and after the word "inquiry" the words and brackets "(if any)" shall be inserted.

Amendment of section 176, Act V of 1898.      6. In sub-section (1) of section 476 of the said Code,—

(a) to the first paragraph the following proviso shall be added, namely :—

“ Provided that, where the Court making the complaint is a High Court, the complaint may be signed by such officer of the Court as the Court may appoint ” ; and

(b) in the second paragraph the word " Chief " shall be omitted.

\* V of 1908.

## ACT NO. III OF 1926.

*Received the Assent of the Governor General on the 24th February, 1926.*

### An Act to determine the liability of certain Governments to taxation in British India in respect of trading operations.

WHEREAS it is expedient to determine the liability to taxation for the time being in force in British India of the Government of any part of His Majesty's Dominions, exclusive of British India, in respect of any trade or business carried on by or on behalf of such Government; It is hereby enacted as follows :—

Short title and commencement.      1. (1) This Act may be called the Government Trading Taxation Act, 1926.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint

2. (1) Where a trade or business of any kind is carried on by or on behalf of the Government of any part of His Majesty's Dominions, exclusive of British India, that Government shall, in respect of the trade or business and of all operations connected therewith, all property occupied in British India and all goods owned in British India for the purposes thereof, and all income arising in connection therewith, be liable—

Liability of certain Governments to taxation in respect of trading operations.

(a) to taxation under the Indian Income-tax Act, 1922,\* in the same manner and to the same extent as in the like case a company would be liable;

(b) to all other taxation for the time being in force in British India in the same manner as in the like case any other person would be liable.

(2) For the purposes of the levy and collection of income-tax under the Indian Income tax Act, 1922, in accordance with the provisions of sub-section (1), any Government to which that sub-section applies shall be deemed to be a company within the meaning of that Act, and the provisions of that Act shall apply accordingly.

(3) In this section the expression "His Majesty's Dominions" includes any territory which is under His Majesty's protection or in respect of which a mandate is being exercised by the Government of any part of His Majesty's Dominions.





(2) The Judge of a District Court may, by order in writing, transfer at any stage any proceeding under this Act pending in his Court for disposal to any officer subordinate to him empowered under sub-section (1).

(3) The Judge of a District Court may at any stage transfer to his own Court or to any officer subordinate to him empowered under sub-section (1) any proceeding under this Act pending in the Court of any other such officer.

(4) When any proceedings are transferred under this section in any case in which a guardian has been appointed or declared, the Judge of the District Court may, by order in writing, declare that the Court of the Judge or officer to whom they are transferred shall, for all or any of the purposes of this Act, be deemed to be the Court which appointed or declared the guardian."

Amendment of section 47, Act VIII of 1890. 4. In section 47 of the said Act, the word " District " shall be omitted.

5. Clause (b) of sub-section (2) of section 19 of the Central Provinces Courts Act, 1917,\* clause (b) of sub-section (2) of section 30 of the Punjab Courts Act, 1918,† clause (b) of sub-section (2) of section 31 of the Oudh Courts Act, 1925,‡ are hereby repealed.

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\* C. P. Act I of 1917.

† Pun. Act VI of 1918.

‡ U. P. Act IV of 1925.

## ACT No. V OF 1926.

*Received the Assent of the Governor General on the 24th February, 1926.*

### An Act further to amend the Indian Lunacy Act, 1912.

WHEREAS it is expedient further to amend the Indian Lunacy Act, 1912,\* for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Lunacy (Amendment) Act, 1926.

2, (1) For sub-section (1) of section 6 of the Indian Lunacy Act, 1912\* (hereinafter referred to as the said Act),  
Amendment of section 6, Act IV of 1912. the following sub-section shall be substituted, namely :—

“(1) Subject to the provisions of sub-section (3), the petition shall be presented by the husband or wife of the alleged lunatic, or, if there is no husband or wife or the husband or wife is prevented by reason of insanity, absence from India or otherwise from making the presentation, by the nearest relative of the alleged lunatic who is not so prevented.”

(2) In sub-section (2) of the same section, for the words “If the petition is not so presented, it” the following shall be substituted, namely :—

“If the petition is not presented by the husband or wife, or, where there is no husband or wife, by the nearest relative of the alleged lunatic, the petitioner.”

3. Section 11A of the said Act shall be renumbered as section 11B, and after section 11 of the said Act the following section shall be inserted, namely :—  
Insertion of new section after section 11. Act IV of 1912.

“11A. (1) The Magistrate may, subject to the provisions of this section, by order in writing (hereinafter referred to as an order of substitution), transfer the duties and responsibilities under this Act of the person on whose petition a reception order has been made to any other person who is willing to undertake the same, and such other person shall thereupon be deemed for the purposes of this Act to be the person on whose petition the reception order was made, and all references in this Act to such last-mentioned person shall be construed accordingly :

Provided that no such order of substitution shall release the person upon whose petition the reception order was made or, if he is dead, his legal representative from any liability incurred before the order of substitution was made.

(2) Before making any order of substitution, the Magistrate shall send a notice to the person upon whose petition the reception order was made, if he is alive, and to any relative of the lunatic to whom, in the opinion of the Magistrate, notice should be given; the notice shall specify the name of the person in whose favour it is proposed to make such order and the date, which shall be not less than twenty days from the sending of the notice, upon which any objection to the making of the order will be considered.

(3) On such date or any subsequent date to which the proceedings may be adjourned, the Magistrate shall consider any objection made by any person to whom notice has been sent, or by any other relative of the lunatic, and shall receive all such evidence as may be produced by or on behalf of any of such persons and such further evidence, if any, as the Magistrate thinks necessary, and may thereafter make or refrain from making an order of substitution :

Provided that, if the person on whose petition the reception order was made is dead and any other person is willing and, in the opinion of the Magistrate, fitted to undertake the duties and responsibilities under this Act of such first-mentioned person, the Magistrate shall make such an order.

(4) If in proceedings under this section any question arises as to the person to whom the duties and responsibilities under this Act of a person upon whose petition a reception order has been made shall be entrusted, the Magistrate shall give preference to the person who is the nearest relative of the lunatic, unless, for reasons to be recorded in writing, the Magistrate considers that such preference would not be in the interests of the lunatic.

(5) The Magistrate may make such order for the payment of the costs of an inquiry under this section by any person who is a party thereto or out of the estate of the lunatic, as he thinks fit.

(6) Any notice under sub-section (2) may be sent by post to the last known address of the person for whom it is intended."

4. In section 11B of the said Act as re-numbered, in clause (e) of Amendment of section sub-section (2), after the figures " 11 " the figures 11B, Act IV of 1912. and letter " 11A " shall be inserted.

## ACT NO. VI OF 1926,

*Received the Assent of the Governor General on the 26th February, 1926.*

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### An Act further to amend the Code of Civil Procedure, 1908.

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908,\* for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1926.

2. In section 103 of the Code of Civil Procedure, 1908,\* for the words “but not determined by the lower appellate Court” the words “which has not been determined by the lower appellate Court or which has been wrongly determined by such Court by reason of any illegality, omission, error or defect such as is referred to in sub-section (1) of section 100” shall be substituted.

Amendment of section 103, Act V of 1908.

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\* V of 1908.

## ACT NO. VII OF 1926.

*Received the Assent of the Governor General on the 26th February, 1926.*

### An Act to consolidate and amend the law relating to the naturalization in British India of aliens resident therein.

WHEREAS it is expedient to consolidate and amend the law relating to the naturalization in British India of aliens resident therein ; It is hereby enacted as follows :—

Short title, extent and commencement.      1. (1) This Act may be called the Indian Naturalization Act, 1926.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “ British subject ” means a British subject as defined in section 27 of the British Nationality and Status of Aliens Act, 1914 ; \*

(b) “ Certificate of naturalization ” means a certificate of naturalization granted under this Act ; and

(c) “ minor ” means any person subject to the Indian Majority Act, 1875,† who has not attained his majority within the meaning of that Act, or any other person who has not attained the age of eighteen years.

3. (1) The Local Government may grant a certificate of naturalization to any person who makes an application in this behalf and satisfies the Local Government—

(a) that he is not a minor ;

(b) that he is neither a British subject nor a subject of any state in Europe or America or of any state of which an Indian British subject is prevented by or under any law from becoming a subject by naturalization ;

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\* 4 & 5 Geo. 5, c. 17.

† IX of 1875.

- (c) that he has, during a period of not less than five years immediately preceding the date of the application, either resided in British India or been in the service of the Crown under the Government ;
- (d) that he is of good character ;
- (e) that he has an adequate knowledge of a language which has been declared by the Local Government, by notification in the local official Gazette, to be a principal vernacular of the province ; and
- (f) that he intends, if the application is granted, to reside in British India or to enter or continue in the service of the Crown under the Government ;

Provided that nothing in clause (c) or clause (f) shall apply in the case of a woman who was a British subject previously to her marriage to a person not a British subject and whose husband has died or whose marriage has been dissolved.

(2) Nothing in this section shall be deemed to prevent the grant of a certificate of naturalization to any person to whom a certificate of naturalization has been issued under the Indian Naturalization Act, 1852.\*

4. (1) Every application for a certificate of naturalization shall be in Contents and form of writing and shall state, to the best of the knowledge and belief of the applicant,—

- (a) his age ;
- (b) his place of birth ;
- (c) his place of residence ;
- (d) his profession, trade, or occupation ;
- (e) full particulars regarding his qualifications in respect of the matters referred to in clauses (a) to (f) of sub section (1) of section 3 ;
- (f) whether he has at any time previously applied for the grant of a certificate of naturalization under the British Nationality and Status of Aliens Act, 1914,† or the Indian Naturalization Act, 1852,‡ or this Act ;
- (g) whether any such application has been rejected ;
- (h) whether any such certificate has been granted to him ; and
- (i) whether any such certificate granted to him has been revoked.

(2) Every such application shall be signed by the applicant and shall be accompanied by an affidavit sworn by him verifying that the statements contained therein are true to the best of his knowledge and belief.

\* XXX of 1852.

† 4 & 5 Geo. 5, c. 17.

‡ XXX of 1852.

(3) The Local Government shall satisfy itself as to the truth of the statements contained in the application, and for this purpose may cause to be made such further inquiry, if any, and may require such further evidence, if any, either by affidavit or otherwise, as it thinks necessary.

5. (1) If the Local Government is satisfied that the applicant is qualified under section 3 for the grant of a certificate of naturalization and is otherwise a fit person for the grant of such certificate, it may grant a certificate reciting the qualifications of the applicant for such grant and conferring upon him all the rights, privileges and capacities of naturalization under this Act, except such rights, privileges or capacities, if any, as may specifically be withheld by the certificate.

(2) Any such certificate may, if the applicant's requests, include the name of any minor child of the applicant, not being by birth a British subject, who was born before the date of the certificate and is for the time being resident in British India and under the control of the applicant; and shall grant to any child so included all the rights, privileges and capacities of naturalization under this Act, except such rights, privileges or capacities, if any, as may specifically be withheld by the certificate.

(3) The grant of a certificate of naturalization shall be in the absolute discretion of the Local Government, and no appeal shall lie from any refusal to grant any such certificate or to include in any such grant any particular right, privilege or capacity.

6. Every person to whom a certificate of naturalization has been granted shall, within thirty days from the date of the grant thereof, take and subscribe the following oath, namely :—

" I. A. B., of

do hereby swear (or affirm) that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, His Heirs and Successors " :

Provided that the Local Government may extend the time allowed under this section in any case in which it is satisfied that failure to take and subscribe the oath within that time was due to sufficient cause.

7. (1) No certificate of naturalization shall have effect until the person to whom it is granted has taken and subscribed the oath prescribed by section 6, but upon the taking and subscribing of such oath such person, the wife of any such person, and any child of any such person who has been included in the certificate under sub-section (2) of section 5, shall, when in British India, be deemed to be British subjects and be entitled to all the rights, privileges and capacities of a British subject born within British India, except such rights, privileges or capacities, if any, as may have been withheld from them respectively by the certificate, and shall within British India be subject to all the obligations, duties and liabilities of a British subject.

(2) When the person to whom a certificate of naturalization has been granted has taken and subscribed the oath prescribed by section 6, any wife thereafter married by, and any child thereafter, born to, such person shall, if she or he is not a British subject and if such person aforesaid at the date of the marriage or birth, as the case may be, retains any rights, privileges or capacities of a British subject under this Act, be entitled to the same rights, privileges and capacities, and be subject to the same obligations, duties and liabilities, to which such person aforesaid was at that date entitled and subject.

8. (1) Where the Local Government of the province in which a person to whom a certificate of naturalization has been granted under this Act, or the Indian Naturalization Act, 1852,\* resides, or, in the case of any such person who is not for the time being resident in British India, the Local Government, by which such a certificate was granted to such person, is satisfied that the certificate was obtained by false representation or fraud or by concealment of material circumstances, or that the person to whom the certificate has been granted has shown himself by act or speech to be disaffected or disloyal to His Majesty, the Local Government shall, by order in writing, revoke the certificate.

(2) Without prejudice to the foregoing provisions, such Local Government shall, by order in writing, revoke such a certificate of naturalization as aforesaid in any case in which it is satisfied that the person to whom the certificate was granted—

- (a) has, during any war in which His Majesty is engaged, unlawfully traded or communicated with the enemy, or with a subject of an enemy state, or been engaged in, or associated with, any business which is to his knowledge carried on in such a manner as to assist the enemy in such war ; or
- (b) has, within five years of the date of the grant of the certificate, been sentenced by any Court in His Majesty's dominions to transportation or to penal servitude, or to imprisonment for a term of not less than twelve months, or to pay a fine of not less than one thousand rupees ; or
- (c) was not of good character at the date of the grant of the certificate ;
- (d) has since the date of the grant of the certificate been, for a period of not less than seven years, ordinarily resident out of His Majesty's dominions otherwise than as a representative of a British subject, firm or company carrying on business, or of an institution established, in His Majesty's dominions, or in the service of the Crown, and has not maintained substantial connection with His Majesty's dominions ; or

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\* XXX of 1852.



(e) remains, according to the law of a state at war with His Majesty, a subject of that estate ;

and that the continuance of the certificate is not conducive to the public good.

(3) Nothing in this section shall be deemed to authorise the revocation by one Local Government of a certificate granted by another Local Government without the concurrence of that other Local Government, or, if that Local Government refuses to concur, of the Governor General in Council.

(4) The Local Government may, if it thinks fit, before making an order under this section, refer the case for such inquiry as is hereinafter specified, and, in any case to which sub section (1) or clause (a), clause (c) or clause (e) of sub section (2) applies, the Local Government shall, by notice given to, or sent by post to the last known address of, the holder of the certificate, give him an opportunity of claiming that the case be referred for such inquiry, and, if the holder so claims in accordance with the notice, the Local Government shall refer the case for inquiry accordingly.

(5) An inquiry under this section shall be held by such person or persons and in such manner as the Local Government may direct in each case.

(6) Where a certificate is revoked under this section, the revocation shall have effect from such date as may be directed by the Local Government, and thereupon the certificate shall be given up and cancelled ; and any person who, without reasonable cause the burden of proving which shall lie upon him, fails to give up his certificate within one month from the aforesaid date, shall be punishable with fine which may extend to one thousand rupees.

(7) For the purposes of this section, any person who has acquired any of the rights, privileges or capacities of naturalization under sub-section (2) of section 5 or sub-section (2) of section 7 by reason of the grant to his parent of a certificate of naturalization, may, after he has attained majority, be deemed to be a person to whom a certificate of naturalization has been granted.

9. (1) Where a certificate is revoked under section 8, the former holder thereof shall cease to be deemed to be a British subject.

(2) On such revocation, the Local Government may, by order in writing, direct that the wife and minor children (or any of them) of the person whose certificate is revoked shall cease to be deemed to be British subjects ; but, where no such direction is made, the status of the wife and minor children of the person whose certificate is revoked shall not be affected by the revocation :

Provided that, in the case of a wife who was at birth a British subject, no such order as aforesaid shall be made unless the Local Government is satisfied that, if she had held a certificate of naturalization in her own right, the certificate could properly have been revoked under section 8,

and the provision of that section as to referring cases for inquiry shall apply to the making of any such order as they apply to the revocation of a certificate.

10. (1) A declaration of alienage in such manner as may be prescribed by rules made under this Act may be made,—  
Declaration of alienage.

(a) within one year of his attaining majority, by any child who has acquired any of the rights, privileges or capacities of naturalization under sub-section (2) of section 5 or sub-section (2) of section 7 ; or

(b) within six months from the date of the revocation of a certificate under section 8, or of the death of, or of the dissolution of her marriage with, the holder of any such certificate as is therein referred to, by the wife of the person whose certificate has been revoked, or who has died, or whose marriage to her has been dissolved, as the case may be.

(2) Where a declaration of alienage has been made in the manner aforesaid, the person making the same, and the wife of any such person, and any children of any such person who are minors and are not by birth British subjects, shall cease to be deemed to be British subjects.

11. Every person making an inquiry under the orders of a Local Government under sub-section (3) of section 4, and every person appointed to hold an inquiry under sub section (5) of section 8, shall be deemed to be a public servant within the meaning of the Indian Penal Code,\* and shall for the purposes of such inquiry have the same powers as are vested in a Court under the Code of Civil Procedure, 1908,† when trying a suit, in respect of the following matters :—  
Inquiries.

(i) enforcing the attendance of any person and examining him on oath ;

(ii) compelling the production of documents and material objects ; and

(iii) issuing commissions for the examination of witnesses ; and every such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228\* of the Indian Penal Code.

12. (1) All oaths and affidavits for the purposes of this Act shall be sworn before a Magistrate or such other person as may be appointed in this behalf by the Local Government.  
Oaths and affidavits.

(2) The Magistrate or other person by whom an oath of allegiance is administered under section 6 shall grant to the person making the same a certificate in writing of his having taken and subscribed such oath and of the date of his taking and subscribing the same, and shall forward to the Local Government the oath so taken and subscribed together with a copy of such certificate.

\* XLV of 1860.

† V of 1908.

13. (1) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, make rules to give effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :—

- (a) the form or forms in which certificates of naturalization shall be granted, and the manner in which they shall be recorded;
- (b) the manner in which declarations of alienage shall be made and recorded ;
- (c) the recording of oaths of allegiance ; and
- (d) the fees which may be imposed for the issue of any certificate, whether of naturalization or otherwise, granted under this Act.

14. Nothing contained in this Act shall be deemed to entitle to Limitation to the grant any of the rights, privileges or capacities of a of naturalization under British subject the child of any person who is this Act. himself so entitled by reason only of the inclusion of his name in a certificate of naturalization under sub-section (2) of section 5 or of the grant of a certificate of naturalization to his parent.

15. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

## THE SCHEDULE.

### ENACTMENTS REPEALED.

(See section 15.)

Year.	No.	Short title.	Extent of repeal.
1852	XXX	The Indian Naturalization Act, 1852.	So much as has not been repealed.
1897	XIV	The Indian Short Titles Act, 1897.	So much of the Schedule as relates to the Indian Naturalization Act, 1852.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Naturalization Act, 1852.
1919	XVI	The Indian Naturalization (Amendment) Act, 1919.	The whole.

## ACT NO. VIII OF 1926.

*Received the assent of the Governor General on the 26th February, 1926.*

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**An Act to amend the Steel Industry (Protection) Act 1924, for the purpose of increasing the total amount payable by way of bounties under that Act in respect of railway wagons and of providing for the grant of bounties in respect of underframes for railway passenger carriages.**

WHEREAS it is expedient to amend the Steel Industry (Protection) Act, 1924,\* for the purpose of increasing the total amount payable by way of bounties under that Act in respect of railway wagons and of providing for the grant of bounties in respect of underframes for railway passenger carriages ; It is hereby enacted as follows :

Short title.

1. This Act may be called the Steel Industry (Amendment) Act, 1926.

2. In the preamble to the Steel Industry (Protection) Act, 1924\* (hereinafter referred to as the said Act), the words "and bounties" shall be omitted, and after the words "to the said industry" the following words shall be inserted, namely :—

Amendment of preamble to Act XIV of 1924.

"and the liability which may be incurred during that period in respect of bounties."

Substitution of new section for section 4. Act XIV of 1924.

3. For section 4 of the said Act the following section shall be substituted, namely :—

Bounties on railway wagons and underframes for carriages.

"4. (1) The Governor General in Council may pay by way of bounties—

(a) in respect of iron or steel wagons ordered during the financial year commencing on the 1st day of April, 1924, by any railway administration as defined in section 3 of the Indian Railways Act, 1890,† such sums, not exceeding in the aggregate a sum of thirteen lakhs and sixty thousand rupees, as he thinks fit, and

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\* XIV of 1924.

† IX of 1890.

(b) in respect of iron or steel wagons and of underframes for railway carriages ordered after the 31st day of March, 1925, and before the 1st day of April 1927, by any such railway administration, such sums, not exceeding in the aggregate a sum of nineteen lakhs and forty thousand rupees, as he thinks fit.

(2) No bounty shall be payable in respect of any wagon or underframe, unless the Governor General in Council is satisfied—

(a) in the case of a wagon, that it is suitable for the public carriage of animals or goods on a railway in India,

(b) in the case of an underframe, that it is suitable for the erection thereon of a public carriage for the conveyance of passengers on a railway in India, and

(c) that a substantial portion of the component parts of the wagon or underframe has been manufactured in British India.

(3) The Governor General in Council may, by notification in the Gazette of India, prescribe the conditions subject to which and the manner in which the bounties referred to in sub-section (1) may be paid."

4. In section 5 of the said Act, for the words "or wagons" the words "wagons or underframes" shall be substituted. "

Amendment of section 5,  
Act XIV of 1924.

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## ACT NO. IX OF 1926.

*Received the assent of the Governor General on the 26th February 1926.*

### An Act to amend the Presidency towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920.

WHEREAS it is expedient to extend the operation of the Presidency-towns Insolvency Act, 1909,\* to the town of Karachi and to amend the said Act and the Provincial Insolvency Act, 1920,† for the said purpose, and for the further purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title and commencement.      1. (1) This Act may be called the Insolvency (Amendment) Act, 1926.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Amendment of preamble to Act III of 1909.      2. In the preamble to the Presidency-towns Insolvency Act, 1909\* (hereinafter referred to as the said Act), for the words "town of Rangoon" the words "towns of Rangoon and Karachi" shall be substituted.

Amendment of section 2, Act III of 1909.      3. After clause (b) of section 2 of the said Act the following clauses shall be inserted, namely :—

"(bb) 'judge' includes a Judicial Commissioner and an Additional Judicial Commissioner ;

(bbb) 'limits of the ordinary original civil jurisdiction' means, in respect of the Court of the Judicial Commissioner of Sind, the limits of the municipal district of Karachi as from time to time constituted under the Bombay District Municipal Act, 1901,‡ the Port of Karachi, the Cantonments of Karachi and Manora, and any area within the original civil jurisdiction of the said Court notified in this behalf by the Local Government."

Amendment of section 3, Act III of 1909.

4. In section 3 of the said Act,—

(a) in clause (a), for the words "and Bombay" the words "Bombay and Rangoon" shall be substituted ; and

\* III of 1909.

† V of 1920.

‡ Bom. Act III of 1901.

(b) for clause (b) the following clause shall be substituted, namely :—

“(b) the Court of the Judicial Commissioner of Sind.”

5. In section 4 of the said Act, for the words “Chief Judge” the words “Judicial Commissioner” shall be substituted.  
Amendment of section 4,  
Act III of 1909.

6. In sub-section (1) of section 6 of the said Act, for the words “Chief Judge” the words “Judicial Commissioner” shall be substituted.  
Amendment of section 6,  
Act III of 1909.

7. In sub-section (1) of section 77 of the said Act, for the words “and Bombay, and the Chief Judge of the Chief Court of Lower Burma” the words “Bombay and Rangoon and the Judicial Commissioner of Sind” shall be substituted.  
Amendment of section 77,  
Act III of 1909.

8. In sub-section (8) of section 90 of the said Act, for the words “Chief Court of Lower Burma” the words “Court of the Judicial Commissioner of Sind” shall be substituted.  
Amendment of section 90,  
Act III of 1909.

9. For section 104 of the said Act the following section shall be substituted, namely :—  
Substitution of new section 104, Act III of 1909.

“104. (1) Where the Court is satisfied, after such preliminary inquiry, if any, as it thinks necessary, that there is ground for inquiring into any offence referred to in section 103 and appearing to have been committed by the insolvent, the Court may record a finding to that effect and make a complaint of the offence in writing to a Presidency Magistrate or a Maaistrate of the first class having jurisdiction, and such Magistrate shall deal with such complaint in the manner laid down in the Code of Criminal Procedure, 1898.\*

(2) Any complaint made by the Court under sub-section (1) may be signed by such officer of the Court as the Court may appoint in this behalf.”

10. Any proceedings under the Provincial Insolvency Act, 1920,† pending in the Court of the Judicial Commissioner of Sind at the commencement of this Act, shall continue, and all the provisions of the said Act shall apply thereto as if this Act had not been passed.  
Saving of pending proceedings.

Amendment of Act V of 1920.

11. In the Provincial Insolvency Act, 1920,†—

(a) in the preamble, for the words “Town of Rangoon” the words “Towns of Rangoon and Karachi” shall be substituted ;

(b) in clause (b) of sub-section (1) of section 2, for the words "and of the Town of Rangoon" the words "the Town of Rangoon and the limits of the ordinary original civil jurisdiction of the Court of the Judicial Commissioner of Sind as defined in section 2 of the Presidency-towns Insolvency Act, 1909,"\* shall be substituted ; and

(c) for sub-sections (1), (2) and (3) of section 70 the following shall be substituted, namely :—

"70. Where the Court is satisfied, after such preliminary inquiry, if any, as it thinks necessary, that there is ground for inquiring into any offence referred to in section 69 and appearing to have been committed by the insolvent, the Court may record a finding to that effect and make a complaint of the offence in writing to a Magistrate of the first class having jurisdiction, and such Magistrate shall deal with such complaint in the manner laid down in the Code of Criminal Procedure, 1898."†

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## NO. X OF 1926.

*Received the assent of the Governor General on the 26th February 1926.*

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### An Act further to amend the Code of Criminal Procedure, 1898, for a certain purpose

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898,† for the purpose hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Code of Criminal Procedure (Second Amendment) Act, 1926.  
Short title.

2. In sub-section (6) of section 123 of the Code of Criminal Procedure, 1898,† the words and figures "or section 109" shall be omitted, and before the word and figures "section 110" the words and figures "section 109 or" shall be inserted.

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\* III of 1909.

† V of 1898.



## NO. XI OF 1926.

*Received the assent of the Governor General on the 2nd March 1926.*

### An Act to provide for the validation of certain promissory notes.

WHEREAS it is expedient to provide for the validation of certain promissory notes stamped with postage stamps of the denomination of two or four annas ; It is hereby enacted as follows :—

Short title and extent.                      I. (1) This Act may be called the Promissory Notes (Stamp) Act, 1926.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

2. A promissory note payable on demand for an amount exceeding two hundred and fifty rupees, executed after the the 30th day of September 1923, and before the 5th day of January 1925, and stamped with an adhesive stamp or adhesive stamps inscribed for postage and of the value required by the law in force at the time the promissory note was executed, shall not, by reason only of the fact that the stamp or the stamps or any of them is or are of a description other than that required by such law, be deemed for any of the purposes of the Indian Stamp Act, 1899,\* or of the rules made thereunder, not to have been duly stamped.

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\* II of 1899.

## ACT NO. XII OF 1926.

*Received the assent of the Governor General on the 8th March, 1926.*

### An Act to define and limit the powers of certain Courts in punishing contempts of courts.

WHEREAS doubts have arisen as to the powers of a High Court of Judicature to punish contempts of subordinate Courts ;

AND WHEREAS it is expedient to resolve these doubts and to define and limit the powers exercisable by High Courts and Chief Courts in punishing contempts of court ; It is hereby enacted as follows :—

Short title, extent and commencement.      1. (1) This Act may be called the Contempt of Courts Act, 1926.

(2) It shall extend to the whole of British India.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. (1) Subject to the provisions of sub-section (3) the High courts of Judicature established by Letters Patent shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to them as they have and exercise in respect of contempts of themselves.

(2) Subject to the provisions of sub-section (3), a Chief Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempt of itself as a High Court referred to in sub-section (1).

(3) No High Court shall take cognisance of a contempt alleged to have been committed in respect of a Court subordinate to it where such contempt is an offence punishable under the Indian Penal Code.\*

3. Save as otherwise expressly provided by any law for the time being in force, a contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine, which may extend to two thousand rupees, or with both :

Limit of punishment for contempt of court.      Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the Court.

## ACT NO. XIII OF 1926.

*Received the assent of the Governor General on the 9th March, 1926.*

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### **An Act further to amend the Indian Registration Act, 1908.**

Whereas it is expedient further to amend the Indian Registration Act, 1908,\* so as to enable some Sub-Registrars to exercise and perform the powers and duties of a Registrar to hold an inquiry on denial of execution ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Registration (Amendment) Act, 1926.

2. To sub-section (3) of section 35 of the Indian Registration Act, 1908,\* the following proviso shall be added, namely :—  
 Amendment of section 35 1908,\* the following proviso shall be added,  
 Act XVI of 1908, namely :—

“ Provided further that the Local Government may, by notification in the local official Gazette declare that any Sub-Registrar named in the notification shall, in respect of documents the execution of which is denied, be deemed to be a Registrar for the purposes of this sub-section and of Part XII.”

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\* XVI of 1908.

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## ACT NO. XIV OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor-General on the 25th March, 1926.)*

### An Act further to amend the Madras Civil Courts Act, 1873.

Whereas it is expedient further to amend the Madras Civil Courts Act, 1873,\* for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short-title.

1. This Act may be called the Madras Civil Courts (Amendment) Act, 1926.

Insertion of new section 29 in Act III of 1873.

2. After section 28 of the Madras Civil Courts Act, 1873,\* the following section shall be inserted, namely :—

“29. (1) The High Court may, by general or special order, authorise any Subordinate Judge to take cognizance of, or any District Judge to transfer to any Subordinate Judge under his control, any proceedings under the Indian Succession Act, 1925,† which cannot be disposed of by District Delegates.

(2) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge, and may either himself dispose of them or transfer them to a Court under his control competent to dispose of them.

(3) Notwithstanding anything contained in section 13, proceedings taken cognizance of by, or transferred to, a Subordinate Judge under the provisions of this section shall be disposed of by him subject to the law applicable to like proceedings when disposed of by the District Judge.”

## ACT NO. XV OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 25th March, 1926.)*

### An Act further to amend the Legal Practitioners Act, 1879.

Whereas it is expedient further to amend the Legal Practitioners Act, 1879,‡ for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Legal Practitioners (Amendment) Act, 1926.

\* III of 1873.

† XXXIX of 1925.

‡ XVIII of 1879.

2. For the definition of "tout" in section 3 of the Legal Practitioners Act, 1879\* (hereinafter referred to as the said Act), the following definition shall be substituted, namely :—

Amendment of section 3,  
Act XVIII of 1879.

“ ‘tout’ means a person—

- (a) who procures, in consideration of any remuneration moving from any legal practitioner, the employment of the legal practitioner in any legal business; or who proposes to any legal practitioner or to any person interested in any legal business to procure, in consideration of any remuneration moving from either of them, the employment of the legal practitioner in such business; or
- (b) who for the purposes of such procurement frequents the precincts of Civil or Criminal Courts or of revenue offices, or railway stations, landing stages, lodging places or other places of public resort.”

Amendment of section 36,  
Act XVIII. of 1879.

3. In section 36 of the said Act, —

- (a) in sub-section (1) after the word “satisfaction” the words “or to the satisfaction of any subordinate Court as provided in sub-section (2A)” shall be inserted;
- (b) to sub-section (1) the following *Explanation* shall be added, namely :—

*Explanation.*—The passing of a resolution, declaring any person to be or not to be a tout, by a majority of the members present at a meeting, specially convened for the purpose, of an association of persons entitled to practise as legal practitioners in any Court or revenue-office, shall be evidence of the general repute of such person for the purposes of this sub-section.”;

- (c) after sub-section (2) the following sub-section shall be inserted, namely :—

“(2A) Any authority empowered under sub-section (1) to frame and publish a list of touts may send to any Court subordinate to such authority the names of any persons alleged or suspected to be touts, and order that Court to hold an inquiry in regard to such persons; and the subordinate Court shall there-upon hold an inquiry into the conduct of such persons and, after giving each such person an opportunity of showing cause as provided in sub-section (2), shall report to the authority which has ordered the inquiry the name of each such person who has been proved to the satisfaction of the subordinate Court to be a tout; and that authority may include the name of any such person in the list of touts framed and published by that authority :

Provided that such authority shall hear any such person who, before his name has been so included, appears before it and desires to be heard” ;

(d) after sub-section (5) the following sub-section shall be inserted, namely :—

“(6) Any person who acts as a tout whilst his name is included in any such list shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.”

## ACT NO. XVI OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 25th March, 1926.)*

### An Act to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions in British India.

Whereas it is expedient to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions in British India ; It is hereby enacted as follows :—

#### CHAPTER I.

##### *Preliminary.*

Short title, extent and commencement. 1. (1) This Act may be called the Indian Trade Unions Act, 1926.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “executive” means the body, by whatever name called, to which the management of the affairs of a Trade Union is entrusted ;

(b) “officer”, in the case of a Trade Union, includes any member of the executive thereof, but does not include an auditor ;

(c) “prescribed” means prescribed by regulations made under this Act ;

(d) “ registered office” means that office of a Trade Union which is registered under this Act as the head office thereof ;

(e) “ Registered Trade Union” means a Trade Union registered under this Act ;

- (f) "Registrar" means a Registrar of Trade Unions appointed by the Local Government under section 3, and "the Registrar", in relation to any Trade Union, means the Registrar appointed for the province in which the head or registered office, as case may be, of the Trade Union is situated ;
- (g) "trade dispute" means any dispute between employers and workmen or between workmen and workmen, or between employers and employers which is connected with the employment or non-employment, or the terms of employment or the conditions of labour, of any person, and "workmen" means all persons employed in trade or industry whether or not in the employment of the employer with whom the trade dispute arises ; and
- (h) "Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions :

Provided that this Act shall not affect—

- (i) any agreement between partners as to their own business ;
- (ii) any agreement between an employer and those employed by him as to such employment ; or
- (iii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.

## CHAPTER II.

### *Registration of Trade Unions.*

Appointment of Registrars. 3. Each Local Government shall appoint a person to be the Registrar of Trade Unions for the province.

4. Any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the Trade Union under this Act.

Application for registration. 5. (1) Every application for registration of a Trade Union shall be made to the Registrar, and shall be accompanied by a copy of the rules of the Trade Union and a statement of the following particulars, namely :—

- (a) the names, occupations and addresses of the members making the application ;
- (b) the name of the Trade Union and the address of its head office ; and

- (c) the titles, names, ages, addresses and occupations of the officers of the Trade Union.

(2) Where a Trade Union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars as may be prescribed.

6. A Trade Union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely :—

- (a) the name of the Trade Union ;
- (b) the whole of the objects for which the Trade Union has been established ;
- (c) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act ;
- (d) the maintenance of a list of the members of the Trade Union and adequate facilities for the inspection thereof by the officers and members of the Trade Union ;
- (e) the admission of ordinary members who shall be persons actually engaged or employed in an industry with which the Trade Union is connected, and also the admission of the number of honorary or temporary members as officers required under section 22 to form the executive of the Trade Union ;
- (f) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members ;
- (g) the manner in which the rules shall be amended, varied or rescinded ;
- (h) the manner in which the members of the executive and the other officers of the Trade Union shall be appointed and removed ;
- (i) the safe custody of the funds of the Trade Union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the officers and members of the Trade Union ; and
- (j) the manner in which the Trade Union may be dissolved.

7. (1) The registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 5, or that the Trade Union is entitled to registration under section 6, and may refuse to register the Trade Union until such information is supplied.



(2) If the name under which a Trade Union is proposed to be registered is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall require the persons applying for registration to alter the name of the Trade Union stated in the application, and shall refuse to register the Union until such alteration has been made.

8. The Registrar, on being satisfied that the Trade Union has complied with all the requirements of this Act in regard to registration, shall register the Trade Union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the Trade Union contained in the statement accompanying the application for registration.

9. The Registrar, on registering a Trade Union under section 8, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the Trade Union has been duly registered under this Act.

10. A certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar—

(a) on the application of the Trade Union to be verified in such manner as may be prescribed, or

(b) if the Registrar is satisfied that the certificate has been obtained by fraud or mistake, or that the Trade Union has ceased to exist or has wilfully and after notice from the Registrar contravened any provision of this Act or allowed any rule to continue in force which is inconsistent with any such provision, or has rescinded any rule providing for any matter provision for which is required by section 6 :

Provided that not less than two months' previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the Registrar to the Trade Union before the certificate is withdrawn or cancelled otherwise than on the application of the Trade Union.

11. (1) Any person aggrieved by any refusal of the Registrar to register a Trade Union or by the withdrawal or cancellation of a certificate of registration may, within such period as may be prescribed, appeal to such Judge, not below the grade of an additional or assistant Judge of a principal Civil Court or original jurisdiction, as the Local Government may appoint in this behalf.

(2) The Judge may, after such inquiry as he deems necessary, dismiss the appeal, or pass an order directing the Registrar to register the Union and to issue a certificate of registration under the provisions of section 9, or setting aside the order for withdrawal or cancellation of the certificate, as the case may be, and the Registrar shall comply with such order.

(3) For the purpose of the inquiry, the Judge may summon and enforce the attendance of witnesses and compel them to give evidence as if he were a Civil Court ; and he may also direct by whom the whole or

any part of the costs of the inquiry shall be paid, and such costs shall be recovered as if they had been awarded in a suit under the Civil Procedure Code,\* 1908.

(4) In the event of the dismissal of an appeal under sub-section (2), the person aggrieved shall have the right of appeal to the High Court.

12. All communications and notices to a registered Trade Union may be addressed to its registered office. Notice of any change in the address of the head office shall be given within fourteen days of such change to the Registrar in writing, and the changed address shall be recorded in the register referred to in section 8.

13. Every registered Trade Union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal with power to acquire and hold both moveable and immoveable property and to contract, and shall by the said name sue and be sued.

Certain Acts not to apply to registered Trade Unions.

14. The following Acts, namely :—

- (a) The Societies Registration Act,† 1860,
- (b) The Co-operative Societies Act,‡ 1912,
- (c) The Provident Insurance Societies Act,§ 1912,
- (d) The Indian Life Assurance Companies Act,|| 1912, and
- (e) The Indian Companies Act,¶ 1913,

shall not apply to any registered Trade Union, and the registration of any such Trade Union under any such Act shall be void.

### CHAPTER III.

#### *Rights and Liabilities of registered Trade Unions.*

15. The general funds of a registered Trade Union shall not be spent on any other objects than the following, namely :—

- (a) the payment of salaries, allowances and expenses to officers of the Trade Union ;
- (b) the payment of expenses for the administration of the Trade Union, including audit of the accounts of the general funds of the Trade Union ;
- (c) the prosecution or defence of any legal proceeding to which the Trade Union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the Trade Union as such or any rights arising out of the relations of any member with his employer or with a person whom the member employs;

\* V of 1908.

† XXI of 1860.

‡ II of 1912.

§ V of 1912.

|| VI of 1912.

¶ VII of 1913.

- (d) the conduct of trade disputes on behalf of the Trade Union or any member thereof ;
- (e) the compensation of members for loss arising out of trade disputes ;
- (f) allowances to members or their dependants on account of death, old age, sickness, accidents or unemployment of such members ;
- (g) the issue of, or the undertaking of liability under, policies of assurance on the lives of members, or under policies insuring members against sickness, accident or unemployment ;
- (h) the provision of educational, social or religious benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members) or for the dependants of members ;
- (i) the upkeep of a periodical published mainly for the purpose of discussing questions affecting employers or workmen as such ;
- (j) the payment, in furtherance of any of the objects on which the general funds of the Trade Union may be spent, of contributions to any cause intended to benefit workmen in general, provided that the expenditure in respect of such contributions in any financial year shall not at any time during that year be in excess of one-fourth of the combined total of the gross income which has up to that time accrued to the general funds of the Trade Union during that year and of the balance at the credit of those funds at the commencement of that year ; and
- (k) subject to any conditions contained in the notification, any other object notified by the Governor-General in Council in the Gazette of India.

16. (1) A registered Trade Union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects specified in sub-section (2).

(2) The objects referred to in sub-section (1) are :—

- (a) the payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of any legislative body constituted under the Government of India Act or of any local authority, before, during, or after the election in connection with his candidature or election ; or
- (b) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate ; or
- (c) the maintenance of any person who is a member of any legislative body constituted under the Government of India Act or of any local authority ; or

(d) the registration of electors or the selection of a candidate for any legislative body constituted under the Government of India Act or for any local authority ; or

(e) the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind.

(3) No member shall be compelled to contribute to the fund constituted under sub section (1) ; and a member who does not contribute to the said fund shall not be excluded from any benefits of the Trade Union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the Trade Union (except in relation to the control or management of the said fund) by reason of his not contributing to the said fund ; and contribution to the said fund shall not be made a condition for admission to the Trade Union.

17. No officer or member of a registered Trade Union shall be liable to punishment under sub-section (2) of section 120B of the Indian Penal Code,\* in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15, unless the agreement is an agreement to commit an offence.

18. (1) No suit or other legal proceeding shall be maintainable in any Civil Court against any registered Trade Union or any officer or member thereof in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the Trade Union is a party on the ground only that such act induces some other person to break a contract, of employment, or that it is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A registered Trade Union shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any tortious act done in contemplation or furtherance of a trade dispute by an agent of the Trade Union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by the executive of the Trade Union.

19. Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Trade Union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade :

Provided that nothing in this section shall enable any Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of a Trade Union shall or shall not sell their goods, transact business, work, employ or be employed.

\* XLV of 1860.

20. The account books of a registered Trade Union and the list of members thereof shall be open to inspection by an officer or member of the Trade Union at such times as may be provided for in the rules of the Trade Union.

Right to inspect books of Trade Union.

21. Any person who has attained the age of fifteen years may be a member of a registered Trade Union subject to any rules of the Trade Union to the contrary, and may, subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules :

Rights of minors to membership of Trade Unions.

Provided that no person who has not attained the age of eighteen years shall be an officer of any such Trade Union.

22. Not less than one-half of the total number of the officers of every registered Trade Union shall be persons actually engaged or employed in an industry with which the Trade Union is connected :

Proportion of officers to be connected with the industry.

Provided that the Local Government may, by special or general order, declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order.

23. Any registered Trade Union may, with the consent of not less than two-thirds of the total number of its members and subject to the provisions of section 25, change its name.

Change of name.

24. Any two or more registered Trade Unions may become amalgamated together as one Trade Union with or without dissolution or division of the funds of such Trade Unions or either or any of them, provided that the votes of at least one half of the members of each or every such Trade Union entitled to vote are recorded, and that at least sixty per cent. of the votes recorded are in favour of the proposal.

Amalgamation of Trade Unions.

25. (1) Notice in writing of every change of name and of every amalgamation, signed, in the case of a change of name by the Secretary and by seven members of the Trade Union changing its name, and, in the case of an amalgamation, by the Secretary and by seven members of each and every Trade Union which is a party thereto, shall be sent to the Registrar, and where the head office of the amalgamated Trade Union is situated in a different province, to the Registrar of such province.

Notice of change of name or amalgamation.

(2) If the proposed name is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall refuse to register the change of name.

(3) Save as provided in sub-section (2), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name in the register

referred to in section 8, and the change of name shall have effect from the date of such registration.

(4) The Registrar of the province in which the head office of the amalgamated Trade Union is situated shall, if he is satisfied that the provision of this Act in respect of amalgamation have been complied with and that the Trade Union formed thereby is entitled to registration under section 6, register the Trade Union in the manner provided in section 8, and the amalgamation shall have effect from the date of such registration.

26. (1) The change in the name of a registered Trade Union shall not affect any rights or obligation of the Trade Union or render defective any legal proceeding by or against the Trade Union, and any legal proceeding which might have been continued or commenced by or against it by its former name be continued or commenced by or against it by its new name.

Effects of change of name and of amalgamation.

(2) An amalgamation of two or more registered Trade Unions shall not prejudice any right of any of such Trade Unions or any right of a creditor of any of them

27. (1) When a registered Trade Union is dissolved, notice of the dissolution signed by seven members and by the Secretary of the Trade Union shall, within fourteen days of the dissolution, be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade Union, and the dissolution shall have effect from the date of such registration.

Dissolution.

(2) Where the dissolution of a registered Trade Union has been registered and the rules of the Trade Union do not provide for the distribution of funds of the Trade Union on dissolution, the Registrar shall divide the funds amongst the members in such manner as may be prescribed.

28. (1) There shall be sent annually to the Registrar, on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered Trade Union during the year ending on the 31st day of March next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of March. The statement shall be prepared in such form and shall comprise such particulars as may be prescribed.

Returns.

(2) Together with the general statement there shall be sent to the Registrar a statement showing all changes of officers made by the Trade Union during the year to which the general statement refers, together also with a copy of the rules of the Trade Union corrected up to the date of the despatch thereof to the Registrar.

(3) A copy of every alteration made in the rules of registered Trade Union shall be sent to the Registrar within fifteen days of the making of the alteration.

## CHAPTER IV.

: *Regulations.*

29. (1) Subject to the control of the Governor General in Council, the Local Government may make regulations for the purpose of carrying into effect the provisions of this Act.

Power to make regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulation may provide for all or any of the following matters, namely :—

- (a) the manner in which Trade Unions and the rules of Trade Unions shall be registered and the fees payable on registration ;
- (b) the transfer of registration in the case of any registered Trade Union which has changed its head office from one province to another ;
- (c) the manner in which, and the qualifications of persons by whom, the accounts of registered Trade Unions or of any class of such Unions shall be audited ;
- (d) the conditions subject to which inspection of documents kept by Registrars shall be allowed and the fees which shall be chargeable in respect of such inspections ; and
- (e) any matter which is to be or may be prescribed

30. (1) The power to make regulations conferred by section 29 is subject to the condition of the regulations being made after previous publication

Publication of regulations.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897,\* as that after which a draft of regulations proposed to be made will be taken into consideration shall not be less than three months from the date on which the draft of the proposed regulations was published for general information.

(3) Regulations so made shall be published in the local official Gazette, and on such publication shall have effect as if enacted in this Act.

## CHAPTER V.

*Penalties and Procedure.*

31. (1) If default is made on the part of any registered Trade Union in giving any notice or sending any statement or other document as required by or under any provision of this Act, every officer or other person bound by the rules of the Trade Union to give or send the same, or, if there is no such officer or person, every member of the executive of the Trade Union, shall be punishable with fine which may extend to five rupees

Failure to submit returns.

and, in the case of a continuing default, with an additional fine which may extend to five rupees for each week after the first during which the default continues :

Provided that the aggregate fine shall not exceed fifty rupees.

(2) Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 28, or in or from any copy of rules or of alterations of rules sent to the Registrar under that section, shall be punishable with fine which may extend to five hundred rupees.

32. Any person who, with intent to deceive, gives to any member of a registered Trade Union or to any person intending or applying to become a member of such Trade Union any document purporting to be a copy of the rules of the Trade Union or of any alterations to the same which he knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the like intent, gives a copy of any rules of an unregistered Trade Union to any person on the pretence that such rules are the rules of a registered Trade Union, shall be punishable with fine which may extend to two hundred rupees.

33. (1) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(2) No Court shall take cognizance of any offence under this Act, unless complaint thereof has been made by, or with the previous sanction of, the Registrar or, in the case of an offence under section 32, by the person to whom the copy was given, within six months of the date on which the offence is alleged to have been committed.

## ACT No. XVII OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 25th March, 1926.)*

### An Act further to amend the Indian Tariff Act, 1894.

Whereas it is expedient further to amend the Indian Tariff Act, 1894,\* for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Tariff (Amendment) Act, 1926.

Short title and commencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In the Second Schedule to the Indian Tariff Act, 1894,\* there shall be made the amendments specified in the Schedule to this Act.

Amendment of the Second Schedule, Act VIII of 1894.



## THE SCHEDULE.

(See section 2.)

### AMENDMENTS TO THE SECOND SCHEDULE TO THE INDIAN TARIFF ACT, 1894.

1. After Item No. 10A, the following Item shall be inserted namely :—

“10B. Stick or Seed Lac.”

2. In sub-head (a) of Item No. 12, for the figures and words “5th, 6th, 8th, 9th, or 10th item” the figures and words “3rd, 4th, 6th, 7th, or 8th sub-head” shall be substituted; and for the words “the 1st or 3rd item”, the words “that Item” shall be substituted.

3. In Item No. 15, after the word “hay-tedders” the word “hay-presses” shall be inserted.

4. In Item No. 34A, for the figures “20” in the entry in the fourth column the figure “5” shall be substituted.

5. In Item No. 34B, for the entry in the fourth column the following entry shall be substituted, namely :—

15 per cent. or Rs. 5 per pound of Saccharine contents, whichever is higher.

6. For Item No. 41 the following Item shall be substituted, namely :—

MINERAL OIL—			
“41	(1) which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer, and is ordinarily used for the batching of jute or other fibre;	Ton	Rs. 10
	(2) which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer, and is such as is not ordinarily used for any other purpose than for lubrication;	Imperial gallon.	One anna and four pies.
	(3) which has its flashing point at or above one hundred and fifty degrees of Fahrenheit's thermometer, and is such as is not ordinarily used except as fuel or for some sanitary or hygienic purpose.	<i>Ad valorem</i>	7½ per cent.”

7. In Item No. 42—

(a) for sub-head (1) the following shall be substituted, namely :—

(1) Firearms, including gas and air guns, gas and air rifles and gas and air pistols, not otherwise specified (see Nos. 86A and 141).	Each	Rs. 15 or 30 per cent. <i>Ad valorem</i> , whichever is higher.”
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(b) sub-heads (3) and (4) shall be omitted, and sub-heads (5) to (10) shall be re-numbered as (3), (4), (5), (6), (7) and (8), respectively; and

(c) in sub-head (3) as so re-numbered, for the words "gas guns and rifles" the words "gas guns, gas rifles and gas pistols" shall be substituted.

8. After Item No. 46B the following Items shall be inserted, namely :—

"46C	PORTLAND CEMENT . . . . .	Ton . . .	Rs. 9.
46D	PRINTER'S INK . . . . .	<i>Ad valorem</i>	5 per cent."

9. For Item No. 51B the following shall be substituted, namely :—

"The following textile machinery and apparatus by whatever power operated, namely :—Healds, heald cords and heald knitting needles; reeds and shuttles; warp and weft preparation machinery and looms; dobbies; Jacquard machines; Jacquard harness linen cards; Jacquard cards; punching plates for Jacquard cards; warping mills; multiple box sleys; solid border sleys; tape sleys, swivel sleys; tape looms; wool carding machines; wool spinning machines; hosiery machinery; coir mat shearing machines; coir fibre willowing machines; heald knitting machines; dobby cards; lattices and lags for dobbies; wooden winders; silk looms; silk throwing and reeling machines; cotton yarn reeling machines; sizing machines; doubling machines; silk twisting machines; cone winding machines; piano card cutting machines; harness building frames; card lacing frames; drawing and denting hooks; sewing thread balls making machines; *cumli* finishing machinery; hank boilers; cotton carding and spinning machines; mail eyes, lingoos, comber boards and comber board frames; take up motions; temples and pickers; picking bands; and printing machines".

10. In Item No. 54, the word "ink" shall be omitted, and after the words "but excluding" the words, figures and brackets "ink (*see* No 46D) and" shall be inserted.

11. To Item No. 74 the following shall be added, namely.—

"not otherwise specified (*see* No. 10B)".

12. After Item No. 86 the following Item shall be inserted, namely :—

"86A	ORNAMENTAL ARMS of an obsolete pattern possessing only an antiquarian value; masonic and theatrical and fancy dress swords, provided they are virtually useless for offensive or defensive purposes; and <i>dahs</i> intended exclusively for domestic, agricultural and industrial purposes.	<i>Ad valorem.</i>	15 percent."
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13. In Item No. 103, after the word "cement" the words and brackets ("other than Portland cement") shall be inserted.

14. In Item No. 126, for the words and figures "entry No. 42", the words and figures "entries Nos 42, 86A and 141" shall be substituted.

15. To Item No. 141 the following shall be added, namely :—

"toy cannons, air guns and air pistols for the time being excluded, in any part of British India, from the operation of all the prohibitions and directions contained in the Indian Arms Act, 1878; and bows and arrows".

## ACT No. XVIII OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 25th March, 1926)

### An Act further to amend the Madras Civil Courts Act, 1873.

Whereas it is expedient further to amend the Madras Civil Courts Act, 1873,\* for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Civil Courts (Second Amendment) Act, 1926.

2. In section 28 of the Madras Civil Courts Act, 1873, for the words "five hundred" and "two hundred" the words "one thousand" and "three hundred" respectively, shall be substituted.

Amendment of section 28,  
Act III of 1873.

## ACT NO. XIX OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 25th March, 1926.)

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to repeal the Cotton Duties Act, 1896, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Paper Currency Act, 1923, to fix rates of income-tax, and to provide for the appropriation of certain monies for the purpose of the reduction or avoidance of public debt

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to repeal the Cotton Duties Act, 1896,† to fix maximum rates of postage under the Indian

Post Office Act, 1898,\* further to amend the Indian Paper Currency Act, 1923,† to fix rates of income-tax, and to provide for the appropriation of certain monies for the purpose of the reduction or avoidance of public debt ; It is hereby enacted as follows :—

Short title, extent and duration. 1. (1) This act may be called the Indian Finance Act, 1926.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) Sections 2 and 4 shall remain in force only up to the 31st day of March, 1927.

2. The provisions of section 7 of the Indian Salt Act, 1882,‡ shall, in so far as they enable the Governor General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma and Aden, be construed as if, with effect from the 1st day of April, 1926, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-seventh pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

Repeal of Act II of 1896. 3. The Cotton Duties Act, 1896,§ is hereby repealed :

Provided that any person who hereafter exports by sea any goods on which duty has been paid under the said Act may apply, in the manner provided therein, for the repayment as drawback of the duty so paid, and the Customs-collector shall allow such drawback if he is satisfied that such person would have been entitled to receive payment thereof if the said Act had not been repealed.

4. With effect from the 1st day of April, 1926, the schedule contained in the First Schedule to this Act shall be inserted in the Indian Post Office Act, 1898,|| as the First Schedule to that Act.

5. In sub-section (7) of section 19 of the Indian Paper Currency Act, 1923,¶ for the figures " 1926 " the figures " 1927 " shall be substituted.

6. (1) Income-tax for the year beginning on the 1st day of April, 1926, shall be charged at the rates specified in Part I of the Second Schedule.

(2) The rates of super tax for the year beginning on the 1st day of April, 1926, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922,\*\* be those specified in Part II of the Second Schedule.

(3) For the purposes of the Second Schedule, " total income " means total income as determined, for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.\*\*

\* VI of 1898.

† X of 1923.

‡ XII of 1882.

§ 11 of 1896.

|| VI of 1898.

¶ X of 1923.

\*\* XI of 1922.

7. The balance of all monies accruing to the Governor General in Council after the 31st day of March, 1926, as the share of British India in the annuities payable by Germany under the agreement between the Allied Governments and the German Government signed at London on the 30th day of August, 1924, which remains after payment out of such monies of such amounts as may be payable to local authorities or other persons by way of reparation for loss or damage due to enemy action in the late war, shall be appropriated and applied for the purpose of the reduction or avoidance of public debt.

### SCHEDULE I.

Schedule to be inserted in the Indian Post Office Act, 1898.

[See section 4.]

#### "THE FIRST SCHEDULE.

##### INLAND POSTAGE RATES.

[See section 7.]

##### *Letters.*

For a weight not exceeding two and a half-tolas . . . One anna.  
 For every two and a half tolas, or fraction thereof, exceeding two and a half tolas. One anna.

##### *Postcards.*

Single . . . . . Half an anna  
 Reply . . . . . One anna.

##### *Book, Pattern and Sample Packets.*

For every five tolas or fraction thereof . . . Half an anna.

##### *Registered Newspapers.*

For a weight not exceeding eight tolas . . . Quarter of an anna.  
 For a weight exceeding eight tolas and not exceeding twenty tolas. Half an anna.  
 For every twenty tolas, or fraction thereof, exceeding twenty tolas. Half an anna.

##### *Parcels.*

For a weight not exceeding twenty tolas . . . Two annas.  
 For a weight exceeding twenty tolas and not exceeding forty tolas Four annas.  
 For every forty tolas, or fraction thereof, exceeding forty tolas. Four annas."

## SCHEDULE II.

[See section 6.]

## PART I.

*Rates of Income-tax.*

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	Rate.
(1) When the total income is less than Rs. 2,000	<i>Nil.</i>
(2) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000.	Five pies in the rupee.
(3) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000.	Six pies in the rupee.
(4) When the total income is Rs. 10,000 or upwards, but is less than Rs. 20,000.	Nine pies in the rupee.
(5) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000.	One anna in the rupee.
(6) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000.	One anna and three pies in the rupee.
(7) When the total income is Rs. 40,000 or upwards.	One anna and six pies in the rupee.
B. In the case of every company and registered firm, whatever its total income.	One anna and six pies in the rupee.

## PART II.

*Rates of Super-tax.*

In respect of the excess over fifty thousand rupees of total income :—

- |  |                        |
|--|------------------------|
| (1) in the case of every company . . . . .   | One anna in the rupee. |
| (2) (a) in the case of every Hindu undivided family—   |                        |
| (i) in respect of the first twenty-five thousand rupees of the excess.   | <i>Nil.</i>            |
| (ii) for every rupee of the next twenty-five thousand rupees of such excess.   | One anna in the rupee. |
| (b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company, for every rupee of the first fifty thousand rupees of such excess. | One anna in the rupee. |

(c) in the case of every individual. Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—

(i) for every rupee of the second fifty thousand rupees of such excess.	One and a half annas in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess.	Two annas in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess.	Two and a half annas in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess.	Three annas in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess.	Three and a half annas in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess.	Four annas in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess.	Four and a half annas in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess.	Five annas in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess.	Five and a half annas in the rupee.
(x) for every rupee of the remainder of the excess	Six annas in the rupee

## ACT No. XX OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 25th March, 1926.)*

**An Act to provide for the regular submission of returns of quantities of cotton goods manufactured and cotton yarn spun in British India.**

Whereas it is expedient, notwithstanding the repeal of the Cotton Duties Act, 1896,\* to provide for the regular submission of returns of the quantities of cotton goods manufactured and cotton yarn spun in British India; It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Cotton Industry (Statistics) Act, 1926.

(2) It extends to the whole of British India.

## Definitions.

2. For the purposes of this Act, unless there is anything repugnant in the subject or context, —

- (a) "cotton goods" or "goods" includes all tissues and other articles (except yarn and thread) woven, knitted or otherwise manufactured wholly or partly from cotton yarn ;
- (b) "cotton yarn" or "yarn" means yarn wholly or partly composed of cotton fibres ;
- (c) "mill" means any building or place where cotton goods are woven, and knitted or otherwise manufactured, or where cotton yarn is spun, by machinery moved otherwise than by manual labour, and includes every part of such building or place ;
- (d) "owner", in relation to any mill, includes the managing agent or other principal officer of the mill ; and
- (e) "prescribed" means prescribed by rules made under this Act.

3. (1) The owner of every mill shall each month prepare and deliver, or cause to be prepared and delivered, to the prescribed officer a return of all cotton goods manufactured and all cotton yarn spun in the mill during the preceding month by machinery moved otherwise than by manual labour, and shall subscribe a declaration of the truth of the return at the foot thereof.

(2) Save as may be otherwise prescribed, every such return shall state, in respect of each description of goods and of yarn, the quantity manufactured during the period to which the return relates, and shall contain such further information, and be in such form and be subject to such conditions as to verification and otherwise, as may be prescribed.

(3) Every such return shall be delivered to the prescribed officer or posted to his address within seven days after the end of the month to which it relates.

4. (1) Any officer authorised by the Local Government by order in writing in this behalf shall have free access at all reasonable times during working hours to any mill and may at any time, with or without notice to the owner, examine and take copies of, or extracts from, the records of the mill for the purpose of testing the accuracy of any return made under section 3, or of informing himself as to any particulars regarding which information is required for the purposes of this Act or any rules made thereunder :

Power to inspect mills and take copies of records.

Provided that no officer not especially empowered by the Local Government in this behalf shall be entitled to inspect any record containing the description or formulæ of any trade process.

(2) All copies and extracts and all information acquired by any officer in the inspection of any mill under this section shall be treated as strictly confidential.



5. The Governor General in Council shall, from the returns delivered under section 3, cause to be compiled and published, in such form as he may direct, statements showing for each month the total quantities of goods manufactured and of yarn spun in mills in British India.

6. (1) The Governor General in Council may, by notification in the Gazette of India, make rules consistent with this Act to carry out the purposes thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the form of any return required under this Act, the particulars to be contained therein, and the manner in which the return shall be verified ;
- (b) the nature of the records to be maintained by the owners of mills ;
- (c) the powers and duties, in regard to the inspection of mills under this Act, of the officers authorised to make such inspections ; and
- (d) any other matter which may be or is to be prescribed

Penalties.

7. (1) Any person who—

- (a) knowingly falsifies any record of manufacture or production kept in a mill, or
- (b) being required to deliver a return under section 3, knowingly delivers a false return, or
- (c) omits to make any return required by section 3, or refuses to sign or complete the same, or
- (d) knowingly does any act, not otherwise punishable under this Act, in contravention of the provisions of any rule made under this Act,

shall be punishable with fine which may extend to five hundred rupees.

(2) Any person who discloses any particulars or other information acquired by him in the inspection of any mill under this Act shall be punishable with fine which may extend to one thousand rupees.

Provided that nothing in this subsection shall apply to the disclosure—

- (a) of any such particulars or information for the purpose of a prosecution under section 193 of the Indian Penal Code \* or under this Act, in respect of any return kept or record made for the purposes of this Act, or
- (b) of any such particulars or information to any person acting in the execution of any duty imposed upon him by this Act, where the disclosure is necessary for the purposes of of this Act.

8. The Governor General in Council may, by notification in the Gazette of India, exempt from the operation of this Act or of any specified provision thereof any mill or class of mills, or any goods or class of goods, specified in the notification.

9. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

Protection for acts done under this Act.

## ACT No. XXI OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 25th March, 1926.)*

**An Act to define in certain cases the rights of legal practitioners to sue for their fees and their liabilities to be sued in respect of negligence in the discharge of their professional duties.**

WHEREAS it is expedient to define in certain cases the rights of legal practitioners to sue for their fees and their liabilities to be sued in respect of negligence in the discharge of their professional duties ; It is hereby enacted as follows :—

Short title, extent and commencement. 1. (1) This Act may be called the Legal Practitioners (Fees) Act, 1926.

(2) It extends to the whole of British India.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Interpretation. 2 For the purposes of this Act, unless there is anything repugnant in the subject or context,—

(a) "legal practitioner" means a legal practitioner as defined in section 3 of the Legal Practitioners Act, 1879 ; \* and

(b) a legal practitioner shall not be deemed to "act" if he only pleads, or to agree to "act" if he agrees only to plead.

3. Any legal practitioner who acts or agrees to act for any person may by private agreement settle with such person the terms of his engagement and the fee to be paid for his professional services.

Agreement for engagement of legal practitioner.

4. Any such legal practitioner shall be entitled to institute and maintain legal proceedings for the recovery of any fee due to him under the agreement, or, if no such fee has been settled, a fee computed in accordance with the law for the time being in force in regard to the

Right of legal practitioner to sue for fees.

computation of the costs to be awarded to a party in respect of the fee of his legal practitioner.

5. No legal practitioner who has acted or agreed to act shall, by reason only of being a legal practitioner, be exempt from liability to be sued in respect of any loss or injury due to any negligence in the conduct of his professional duties.

6. Sections 28 to 31 of the Legal Practitioners Act, 1879, \* and sections 17, 19 and 28 of the Bombay Pleaders Act, 1920, † are hereby repealed.

## ACT No. XXII OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 25th March, 1926.)*

### An Act to amend the law relating to the appointment of legal practitioners in civil suits and for this purpose further to amend the Code of Civil Procedure, 1908

WHEREAS it is expedient to amend the law relating to the appointment of legal practitioners in civil suits and for this purpose further to amend the Code of Civil Procedure, 1908 ; ‡ It is hereby enacted as follows :—

Short title and com-  
mencement. 1. (1) This Act may be called the Code of Civil Procedure (Second Amendment) Act, 1926.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Amendment of Order III,  
Schedule I, Act V of 1908. 2. In Order III of Schedule I to the Code of Civil Procedure, 1908, †—

(a) in rule 1 for the words "duly appointed to act" the words "appearing, applying or acting, as the case may be," shall be substituted ; and

(b) for rule 4 the following rule shall be substituted namely :—

"4. (1) No pleader shall act for any person in any Court, unless he has been appointed for the purpose by such person by a document in writing signed by such person or by his recognised agent or by some other person duly authorised by or under a power of attorney to make such appointment.

- (2) Every such appointment shall be filed in Court and shall be deemed to be in force until determined with the leave of the Court by a writing signed by the client or the pleader, as the case may be, and filed in Court. or until the client or the pleader dies, or untill all proceedings in the suit are ended so far as regards the client.
- (3) For the purposes of sub rule (2) an application for review of judgment, an application under section 144 or section 152 of this Code, any appeal from any decree or order in the suit and any application or act for the purpose of obtaining copies of documents or return of documents produced or filed in the suit or of obtaining refund of monies paid into the Court in connection with the suit shall be deemed to be proceedings in the suit.
- (4) The High Court may, by general order, direct that, where the person by whom a pleader is appointed is unable to write his name, his mark upon the document appointing the pleader shall be attested by such person and in such manner as may be specified by the order.
- (5) No pleader who has been engaged for the purpose of pleading only shall plead on behalf of any party, unless he has filed in Court a memorandum of appearance signed by himself and stating--
  - (a) the names of the parties to the suit,
  - (b) the name of the party for whom he appears, and
  - (c) the name of the person by whom he is authorised to appear :

Provided that nothing in this sub-rule shall apply to any pleader engaged to plead on behalf of any party by any other pleader who has been duly appointed to act in Court on behalf of such party."

3. Section 10 and Form C in Schedule II of the Bombay Pleaders Repeals. Act. 1920, \* are hereby repealed.

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\* Bom Act XVIII of 1920.

## ACT NO. XXIII OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

(*Received the assent of the Governor General on the 25th March, 1926.*)

**An Act to provide for the maintenance of the works established to supply drinking water in bulk for the urban area of the city of Delhi, and for that purpose to constitute a Joint Water Board to undertake such maintenance.**

Whereas it is expedient to provide for the maintenance of the works established to supply drinking water in bulk for the urban area of the city of Delhi, and for that purpose to constitute a Joint Water Board to undertake such maintenance ; It is hereby enacted as follows :—

### *Preliminary.*

Short title and commencement.      1. (1) This Act may be called the Delhi Joint Water Board Act, 1926

(2) It shall come into force on the 1st day of April, 1926.

Definitions.      2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "the Board" means the Delhi Joint Water Board constituted by this Act ;

(b) "Chief Commissioner" means the Chief Commissioner of Delhi ; and

(c) "constituent body" means any one of the following bodies, namely :—

(i) the Delhi Municipal Committee,

(ii) the Delhi Civil Lines Notified Area Committee,

(iii) the Cantonment Authority, Delhi New Cantonments, and

(iv) the Imperial Delhi Municipal Committee, or such other authority as is for the time being entrusted with the distribution of water in the New Capital area.

### *Constitution, property and liabilities of the Board.*

3. (1) As soon as possible after the commencement of this Act, there shall be constituted a Joint Water Board for Delhi consisting of nine members, of whom—

Constitution of the Board.

(a) one shall be the Chief Commissioner ;

(b) four shall be members of the Delhi Municipal Committee elected by that Committee ;

(c) one shall be a member of the Delhi Civil Lines Notified Area Committee elected by that Committee ;

(d) one shall be a person nominated by the Officer Commanding the Delhi Independent Brigade ; and

(e) two shall be persons nominated by the Governor General in Council.

(2) If any constituent body fails to elect within three months from the commencement of this Act any member who is to be elected by it under sub section (1), or to fill within three months any vacancy in the office of a member so elected, the Chief Commissioner may nominate to the vacancy any member of that constituent body and the person so nominated shall hold office until the constituent body concerned elects another member in his place.

4. (1) The Board constituted under section 3 shall be a body corporate by the name of the Delhi Joint Water Board, having perpetual succession and a common seal with power to acquire and hold property, both moveable and immoveable, and to contract, and shall by the said name sue and be sued

(2) The Chief Commissioner shall be *ex-officio* President of the Board.

(3) The Secretary of the Board shall be a person, not being a member of the Board, appointed by the Board.

5. Upon the constitution of the Board there shall be vested in the Board the works and other property specified in Parts A and B of Schedule I which were formerly the property of the Delhi Municipal Committee and of the Government, respectively.

6. If the Board is of opinion that the works and other property for the time being vested in it are inadequate for the purpose of efficient supply of water under this Act, it may borrow money from the Governor General in Council or, with the sanction of the Governor General in Council and on such terms as he may approve, from any constituent body for the purpose of constructing additional works or of acquiring additional property, and the loan so raised shall be expended in the construction of such works or the acquisition of such property, and any works so constructed or property so acquired shall vest in the Board.

7. The Governor General in Council may direct that any specified work, repair, renewal or replacement which is to be undertaken by or for the Board shall be carried out on behalf of the Board by the Governor General in Council, and the Board shall pay the charges therefor at the rates and subject to the terms for the time being applicable in the case of works constructed by the Governor General in Council on behalf of a local authority.

8. (1) The Board shall, for the purpose of the renewal and replacement of the works and property vested in it, maintain a fund in such manner and subject to such conditions as the Auditor General may by rules prescribe.

(2) Without prejudice to the generality of the power of the Auditor General to make rules under sub section (1), such rules shall provide for the following matters, namely :—

- (a) the amount of the annual payments to be made into the fund,
- (b) the manner in which the balances of the fund shall be invested, and
- (c) the manner in which and the objects upon which the balances and the interest accruing thereon may be expended.

9. In consideration of the transfer to the Board of the works and other property of the Delhi Municipal Committee, specified in Part A of Schedule I, the Board shall be deemed to have taken from the Committee a loan of five lakhs of rupees bearing interest at the rate of six rupees per cent per annum, and such loan shall be repaid to the Committee in equated half-yearly instalments of principal and interest over a period of fifty years or such shorter period, if any, not being less than thirty years, as the Committee may, before the payment of the first half yearly instalment becomes due, elect.

10. (1) In consideration of the transfer to the Board of the works and other property of the Government specified in Part B of Schedule I, the Board shall be deemed to have taken from the Governor General in Council a loan of nineteen lakhs of rupees or of a sum equal to one-half of the capital cost of the works and property specified in that Part, whichever sum is less, and such loan shall bear interest at the rate of six rupees per cent. per annum and shall be repaid to the Governor General in Council in equated half-yearly instalments of principal and interest over a period of fifty years.

(2) For the purposes of this section, the capital cost of the works and other property specified in Part B of Schedule I shall be the amount recorded in the accounts of the Governor General in Council as the capital cost thereof, and, if any question arises as to the capital cost of any such works or property, it shall be referred to the Auditor General, whose decision shall be final.

*Supply of water and payment therefor.*

11. The Board shall be bound to supply to each constituent body, at the place or places specified in respect of such body in Schedule II or at such other place or places as may be agreed between the Board and such body, water in bulk up to the amount demanded by such body or, if the total demand of the constituent bodies is in excess of the available supply, up to such proportion in the case of each constituent body as the Board may determine.

Provided that, if the Delhi Municipal Committee by notice in writing to the Board so requires, the amount supplied to the Committee shall not in any one day during such period as may be specified in the notice be less than five-sevenths of the total supply available during that day or seven and a half million gallons, whichever amount is less.

12. (1) Each constituent body shall pay for the water supplied to it the actual cost of supplying such water at a rate in respect of each thousand gallons of water supplied (hereinafter referred to as the final issue rate) calculated in the manner prescribed in this section.

Constituent bodies to pay actual cost of supply of water.

Provided that the Delhi Municipal Committee shall be required to pay, in respect of each financial year, for the actual water supplied to it or for one thousand four hundred and sixty million gallons of water, whichever amount is greater, at the final issue rate or at the rate of three annas per thousand gallons, whichever is less, and any amount by which the price at the final issue rate of the supply actually taken by the Committee exceeds the sum so payable by the Committee shall be payable to the Board by the Governor General in Council.

(2) The final issue rate shall be calculated for each financial year after the accounts of the year have been closed by dividing the amount of the total expenditure of the Board during the year by the number of thousand gallons supplied by the Board during that year to the constituent bodies.

(3) For the purposes of sub section (2) there shall be taken into account as expenditure of the Board—

(a) all establishment charges, including all expenditure upon repairs and maintenance not debitable to the fund established under section 8 ;

(b) repayments of principal and payments of interest in respect of any loan taken by the Board under section 6 ;

(c) the equated instalments payable to the Delhi Municipal Committee and the Governor General in Council under sections 9 and 10 ; and

(d) payments into the fund established under section 8 after deduction of such income, if any, from interest on the balances of the fund as is, under rules made by the Auditor General under that section, to be deemed to be current revenue of the Board.

13. (1) Pending the calculation of the final issue rate for any financial year, payments for water supplied during that year shall be made provisionally at an estimated rate (hereinafter referred to as the collecting rate).

Provisional collecting rate.

(2) The collecting rate shall be calculated at the time of the framing of the budget estimates for the financial year by dividing the sum of the amount of the estimated expenditure of the Board in that year and of an addition of five per cent. of that amount by the number of thousand gallons of water estimated as likely to be supplied during that year.

(3) If any difference of opinion arises as to the supply of water to be estimated for the purposes of the ascertainment of the collecting rate the decision of the President of the Board thereon shall be final.

(4) Each constituent body shall pay on demand after the close of each quarter of each financial year the cost of the water supplied to it in that quarter calculated at the collecting rate :



Provided that, in the case of the water supplied to the Delhi Municipal Committee, if the collecting rate exceeds the rate of three annas per thousand gallons, the difference between the amount payable at that rate and the amount payable at the collecting rate shall be payable to the Board by the Governor General in Council.

14. (1) If the final issue rate for any financial year exceeds the collecting rate determined for that year, the balance due shall be recovered from each constituent body, or, in the case of an excess over the three annas rate payable by the Delhi Municipal Committee, from the Governor General in Council.

Final settlement of accounts.

(2) If the final issue rate is less than the collecting rate, the excess collection shall be refunded to the constituent bodies from whom it was collected or, in the case of any amount recovered in excess from the Governor General in Council under sub section (4) of section 13, to the Governor General in Council.

(3) If the total amount of water supplied during any financial year to the Delhi Municipal Committee is found to have been less than the minimum prescribed in sub section (1) of section 12, the payment for the deficiency calculated at the final issue rate or at the rate of three annas per thousand gallons, whichever is less, shall be recovered from the Delhi Municipal Committee.

(4) Where any amount has been recovered under sub section (3) from the Delhi Municipal Committee, then, if any recovery has been made from the Governor General in Council under sub-section (4) of section 13, the amount so recovered from the Committee or such portion thereof as is equal to the amount recovered from the Governor General in Council, shall be refunded to him.

15. (1) If any dispute arises between the Board and the Governor General in Council or any constituent body as to the liability of the Governor General in Council or the constituent body to pay any sum demanded by the Board or as to the right of the Governor General in Council or the constituent body to any refund, or as to the amount of any refund, from the Board, the Governor General in Council or the constituent body, as the case may be, may require the Board to refer the matter in dispute to the Auditor General, and the decision of the Auditor General thereon shall be final :

Disputes as to liability for payments to or by the Board.

Provided that, where the dispute relates to the liability of the Governor General in Council or a constituent body to make any payment to the Board, the payment shall be made to the Board pending the decision of the Auditor General.

(2) In making any such reference the Board shall furnish to the Auditor General and to the Governor General in Council or the constituent body concerned, as the case may be, a full statement of the grounds of its claim, and the Auditor General shall consider such statement together with any like statement received from the Governor General in Council or the constituent body, within six weeks from the date of such reference.

16. If any constituent body does not, within one month of the receipt of a demand for any sum claimed by the Board, pay such sum, the Chief Commissioner may, on a requisition from the Board in this behalf,—

- (a) if the balances of the constituent body are kept in the Government Treasury, order the officer in charge of the Treasury to reduce the balance at the credit of that body by the amount of the sum due and pay that amount to the Board, or
- (b) in any other case, deduct the amount of the sum due from any contribution or sum payable by him on behalf of the Government to the constituent body and pay the amount so deducted to the Board.

#### *Budget and Accounts.*

17. The budget estimates of the Board for each financial year shall be presented to the Board before the first day of March in the preceding financial year by the President, and the budget as finally passed shall be subject to the approval of the Governor General in Council, who shall have power to reduce any item in the estimates of expenditure and to restore any provision which he considers to be essential for the safe and efficient conduct of the business of the Board.

18. (1) All monies received by the Board shall be credited into a separate account maintained for the purpose in the Government Treasury or, if the Board so elects, into a banking account kept with the Imperial Bank of India or any other bank approved by the Auditor General in this behalf.

(2) All funds for disbursement shall be drawn by means of cheques which shall be signed by the President or by such other member of the Board as the President may, with the approval of the Board, authorise in this behalf.

19. The accounts of the Board shall be maintained in such form and shall be subject to such audit by such agency and on such terms and conditions as the Auditor General may prescribe.

20. The Board shall furnish each financial year to the Chief Commissioner and to each constituent body a copy of its budget and of the accounts of the preceding financial year.

#### *Provident Fund.*

21. (1) The Board shall establish and maintain a Provident Fund for such of its officers and servants as are in receipt of a monthly pay exceeding twenty rupees.

(2) The rules providing for the establishment and maintenance of the Provident Fund established for its officers and servants by the Delhi

Municipal Committee shall, with such modifications only as may be necessary to adapt them for the purpose, apply for the purpose of the establishment and maintenance of the Provident Fund referred to in sub-section (1) until such time as the Board may, with the sanction of the Chief Commissioner, make other rules in this behalf.

(3) Contributions made by the Board to the Provident Fund shall be deemed to be establishment charges for the purpose of clause (a) of sub-section (3) of section 12.

*Rights of user in property.*

22. (1) The Board may place and maintain aqueducts, conduits and lines of mains or pipes over, under, along or across any immovable property without acquiring the same, and may at any time, for the purpose of examining, repairing, altering or removing any aqueduct, conduit or line of mains or pipes, enter on any property over, under, along or across which the aqueduct, conduit or line of mains or pipes has been placed :

Provided that the Board shall not acquire any right other than a right of user in the property over, under, along or across which any aqueduct, conduit or line of mains or pipes is placed.

(2) The powers conferred by sub-section (1) shall not be exercisable in respect of any property vested in or under the control or management of the Government or any local authority or railway administration, save with the permission of the Governor General in Council or the Local Government or the local authority or railway administration, as the case may be, and in accordance with any rules made in this behalf under this Act :

Provided that the Board may, without such permission, repair, renew or amend any existing works of which the character or position is not to be altered if such repair, renewal or amendment is urgently necessary in order to maintain the supply of water without interruption, or is such that delay would be dangerous to human life or property.

23. In the exercise of the powers conferred upon it by section 22, the Board shall cause as little damage and inconvenience as may be possible, and shall make full compensation for any damage or inconvenience caused by it.

*Meters.*

24. (1) For the purpose of measuring and recording the amount of water supplied to each constituent body, the Board shall affix meters at the points of junction between the communication pipes of the constituent body and the mains or pipes belonging to the Board, and the cost of such meters shall be borne by the Board.

(2) It shall be resumed, until the contrary is proved, that the quantity of water supplied through any connection is the quantity indicated by the meter affixed to that connection.

25. (1) If any constituent body desires to have any meter tested, it may make an application in this behalf accompanied by a fee of two hundred and fifty rupees, and, on receipt of such application and fee, the Board shall forthwith cause the meter to be tested at a time and place of which due notice shall have been given to the constituent body.

(2) If the meter is found on being tested to be incorrect, the Board shall be bound to replace or repair the same and to refund the fee paid under sub-section (1) together with such sum, if any, as is proved to the satisfaction of the Board to have been paid in excess by the constituent body by reason of the incorrectness of the meter.

#### *Penalties.*

Penalties.

26. Any person who—

- (a) wilfully obstructs any person acting under the authority of the Board in setting out the line of any works, or pulls up or removes any pillar, post or stake fixed in the ground for the purpose of setting out the lines of such works, or defaces or destroys any works made for the same purpose, or
- (b) wilfully or negligently breaks, injures or opens any lock, cock, valve, pipe or other water work belonging to the Board, or
- (c) unlawfully obstructs the flow of, or flushes, draws off, diverts or takes water from, any water work belonging to the Board, or any water or stream by which any such water work is supplied, or
- (d) obstructs any officer or servant of the Board in the discharge of his duties under this Act, or refuses or wilfully neglects to furnish him with the means necessary for making any entry, inspection, examination, or inquiry thereunder in relation to any water work, or
- (e) bathes in, at or upon any water work, or washes, throws or causes to enter therein any animals, or throws any rubbish, dirt, filth or other offensive matter into any water work, or washes or cleans therein any cloth, wool or leather or the skin of any animal, or causes the water of any sink, sewer or drain or of any steam engine or boiler or any other dirty water to turn or be brought into any water work, or does any other act whereby the water in any water work fouled or likely to be fouled,

shall be punishable with fine which may extend to two hundred and fifty rupees.

#### *Rules and bye-laws.*

27. (1) The Governor General in Council may, by notification in the Gazette of India, make rules consistent with this Act for the purpose of carrying into effect the provisions thereof.

Power of the Governor General in Council to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the term of office of members of the Board ;
- (b) the circumstances in which and the authority by which any member may be removed ;
- (c) the minimum number of meetings of the Board to be held during any year ; and
- (d) the conditions subject to which the Board may exercise the powers conferred by section 22 in respect of property of the Government or of a local authority or railway administration.

28. The Board may, with the sanction of the Chief Commissioner, make bye-laws, consistent with this Act and any rules made thereunder, to provide for all or any of the following matters, namely :—

- (a) the manner in which business shall be conducted at meetings of the Board ;
  - (b) the maintenance by the Board of a record of all business transacted ;
  - (c) the definition of the powers of the Board to enter into contracts which shall be binding on the Board, and the manner in which such contracts shall be executed ;
  - (d) the definition of the powers of the Board in respect of the appointment, promotion and dismissal of officers and servants of the Board ;
  - (e) the grant of pay and leave to officers and servants of the Board, and the payment of leave allowances to such officers and servants, and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted ;
  - (f) the regulation of the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Board ;
  - (g) the circumstances in which security may be demanded from officers and servants of the Board and the amount and nature of such security in each case ;
  - (h) the preparation of supplementary estimates of expenditure not included in the budget estimates and the manner in which such estimates shall be presented to the Board and sanctioned ;
  - (i) the general regulation of all matters incidental to the Provident Fund and the investment thereof ; and
  - (j) any other matter for which provision is required for the efficient discharge of the duties or business of the Board.
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## SCHEDULE I.

(See section 5, 9 and 10.)

## LIST OF WORKS AND PROPERTY.

## PART A.

## LIST OF WORKS TAKEN OVER FROM THE DELHI MUNICIPAL COMMITTEE.

1. *At Chandrawal*—

- (a) 2 Settling tanks, each 160' × 63'.
- (b) 8 " " " 163' × 60'.
- (c) 8 Filter beds " " 113' × 80'.

(The above tanks have been converted into settling tanks of greater depth by raising the walls and making certain other alterations.)

- (d) 6 Filter beds each 170' × 100' (one of which has been converted into two settling tanks for the Paterson filters).

- (e) The pipe connections to and from the above settling tanks and filter beds.

## (f) Pumping Station—

with 80' brick chimney and coal bins and tramway and including the following plant—

- 3 Babcock and Wilcox Boilers Register Nos. D-65, D-66 and D-94,
- 2 Green's Economisers,
- 3 Donkey Pumps,
- 3 Pumping Engines Nos. 2428, 2429 and 2907,
- 2 Travelling cranes.

## (g) Workshop equipped with—

- 1 Lathe 20' bed,
- 1 Lathe 12' bed,
- 1 Lathe 6' bed,
- 1 Shaping machine,
- 1 Drilling machine,
- 1 Slotting machine,
- 1 Power hammer,
- 2 Hearths,
- 1 Saw Bench,
- 1 Vice Bench with 7 vices,
- 1 Grindstone,
- 1 Double Emery wheel,
- 1 Blower,
- 1 Steam engine with necessary shafting for running the workshop,
- 5 Almirahs for keeping stores,
- Carpenters shop.

- (h) Superintendent's Bungalow consisting of 4 main rooms and with 14 servants and staff quarters and the necessary latrines, etc.

- (i) Office and Stores, with weighbridge.
- (j) Clear water Reservoir, 2 Nos., total capacity 1,200,000 gallons with pipe connections.
- 2. *From Chandrawal to Hindu Rao—*
  - 1 rising main 18" diameter.
  - 1 rising main 20" diameter.
  - 1 18" venturi meter.
- 3. *At Hindu Rao—*
  - Reservoir, capacity  $2\frac{1}{4}$  million gallons,
  - Byepass and other pipes at Reservoir.
  - Valve House including 24" outlet from the Reservoir and 24", 16" and 12" delivery mains at valve house.
  - Chowkidars' Quarters, 6 Nos.

### PART B.

#### LIST OF WORKS TAKEN OVER FROM THE GOVERNMENT.

- 1. *At Wazirabad—*
  - (a) River training works.
  - (b) River Intake.
  - (c) Pumping Station with 120' steel chimney, coal store and weighbridge and including the following plant—
    - 2 Babcock and Wilcox Boilers, Register No D.-152 D.-153 with stoker engine, feed pumps and Economiser complete,
    - 3 Engine and centrifugal pumps, Nos. 2012, 2013, 2014, Travelling crane.
  - (d) 2 Settling tanks and filters, and clear water reservoir, and pipe connections.
  - (e) 41 Quarters.
- 2. *From Wazirabad to Chandrawal—*
  - (a) 28" venturi meters.
  - (b) Rising main 36" diameter with Nallah crossing.
  - (c) Approach Road and Irish Bridge.
  - (d) 2 Silt tanks near Shah Alam's Mosque
  - (e) Masonry conduit from silt tanks to Chandrawal.
- 3. *At Chandrawal—*
  - (a) Alterations to tanks and filters.
  - (b) Paterson Filter Plant with the necessary supply and delivery channels, and including—
    - Filter and Chemical House.
    - 4 Coagulating Tanks.
    - 2 Tanks by conversion of 170 × 100 filter bed.
    - 15 Paterson Filters.
    - 1 Paterson chloronome and two weighing machines.
    - 2 Motor driven Air Compressors.

- (c) 1 clear water reservoir, 1 million gallons capacity.
- (d) Pumping Station with 150' steel chimney and coal store including the following plant—
  - 2 Babcock and Wilcox Boilers, Register No. D.-154 D.-155 with stoker engine and feed pumps and Economiser complete,
  - 2 Engines and Pumps, Nos. 3056 and 3057,
  - Travelling crane.
- 4. *From Chandrawal to Mutiny Memorial—*
  - (a) 24" venturi meter.
  - (b) Rising main 24" diameter.
  - (c) 20" connection from 24" Government main to 20" Municipal main.
  - (d) 16" connection from 24" main to Hindu Rao Reservoir.
  - (e) Mutiny Memorial Reservoir, capacity 1 million gallons with inlet and outlet pipes at site.
  - (f) Gauging Chamber with necessary control valves and inlet and outlet pipes.
- 5. *From Mutiny Memorial to Talkatora—*
  - (a) 26" diameter steel syphon to Idgah.
  - (b) 26" venturi meter with chowkidar's quarter.
  - (c) Idgah Gauging Chamber with inlet and outlet pipes.
  - (d) Masonry conduit from Idgah to Talkatora.
  - (e) Talkatora Reservoir, capacity 2½ million gallons with inlet and outlet pipes and bypass.
  - (f) Quarters, 5 units.
- 6. *From Talkatora to New Cantonments—*
  - (a) Pumping Station with 2 motor driven centrifugal pumps and starters. etc., complete.
  - (b) Rising main 10" diameter.
  - (c) Reservoir capacity 400,000 gallons with inlet and outlet pipes and bypass.
  - (d) Quarters, one unit.
- 7. Any other work constructed as part of the New Capital Project which the Governor General in Council may hand over to the Board.

## SCHEDULE II.

(See section 11.)

PLACES AT WHICH THE BOARD WILL DELIVER A SUPPLY OF WATER IN BULK.

- (a) Hindu Rao Reservoir, for supply to the Delhi Municipal Committee.
- (b) Mutiny Memorial Reservoir, for supply to the Delhi Civil Lines Notified Area Committee.



- (c) Idgah Reservoir, for supply to the Delhi Municipal Committee and for the purposes of the southern and western City Extensions.
- (d) Talkatora Reservoir, for supply to the Imperial Delhi Municipal Committee.
- (e) Cantonment Reservoir, for supply to the Cantonment Authority, Delhi New Cantonments.

## ACT NO. XXIV OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 25th March, 1926.)*

### An Act further to amend the Indian Income-tax, 1922, for certain purposes.

Whereas it is expedient further to amend the Indian Income-tax Act, 1922,\* for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title and commencement.      1. (1) This Act may be called the Indian Income-tax (Amendment) Act, 1926.

(2) It shall come into force on the 1st day of April, 1926.

Insertion of new section 19A in Act XI of 1922.      2. After section 19 of the Indian Income-tax Act, 1922\* (hereinafter referred to as the said Act), the following section shall be inserted, namely :—

“19A. The principal officer of every company shall, on or before the 15th day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and of the addresses, as entered in the register of shareholders maintained by the company, of the shareholders to whom a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding year and of the amount so distributed to each such shareholder.”

Amendment of section 51, Act XI of 1922.      3. In clause (c) of section 51 of the said Act, after the words “mentioned in” the word and figures “section 19A or” shall be inserted.

Amendment of section 52, Act XI of 1922.      4. In section 52 of the said Act, after the words “mentioned in” the words and figures “section 19A ” shall be inserted.

Amendment of section 57,  
Act XI of 1922.

5. (1) In sub-section (1) of section 57 of the said Act, for the word "assessee" the word "person" shall be substituted.

(2) For sub section (2) of the same section the following sub sections shall be substituted, namely :—

"(2) Where the Income-tax Officer has reason to believe that any person, who is a shareholder in a company, is resident out of British India and that the total income of such person will in any year exceed the maximum amount which is not chargeable to super-tax under the law for the time being in force, he may, by order in writing, require the principal officer of the company to deduct at the time of payment of any dividend from the company to the shareholder in that year super-tax at such rate as the Income tax Officer may determine as being the rate applicable in respect of the income of the share-holder in that year.

(3) If in any year the amount of any dividend or the aggregate amount of any dividends paid to any shareholder by a company (together with the amount of any income-tax payable by the company in respect thereof) exceeds the maximum amount of the total income of a person which is not chargeable to super-tax under the law for the time being in force, and the principal officer of the company has not reason to believe that the shareholder is resident in British India, and no order under sub-section (2) has been received in respect of such shareholder by the principal officer from the Income-tax Officer, the principal officer shall at the time of payment deduct super-tax on the amount of such excess at the rate which would be applicable under the law for the time being in force if the amount of such dividend or dividends (together with the amount of such income-tax as aforesaid) constituted the whole total income of the shareholder."

(3) Sub-section (3) of the same section shall be re numbered as sub-section (4), and in that sub-section for the words "an assessee" the words "another person" and for the word "assessee", where it occurs for the second time, the word "person" shall be substituted.

Amendment of section 58,  
Act XI of 1922.

6. To sub-section (1) of section 58 of the said Act the following proviso shall be added, namely :—

"Provided that sub-sections (4) to (9) of section 18 shall apply, so far as may be, to the assessment, collection and recovery of super-tax under sub-section (2) or sub-section (3) of section 57."

Amendment of section 66  
Act XI of 1922.

7. To section 66 of the said Act the following sub-section shall be added, namely :—

"(8) For the purposes of this section "the High Court" means—

(a) in relation to the North-West Frontier Province and British Baluchistan, the High Court of Judicature at Lahore ;

(b) in relation to the province of Amjer-Merwara, the High Court of Judicature at Allahabad ; and

(c) in relation to the province of Coorg, the High Court of Judicature at Madras."

Insertion of new section 8. After section 66 of the said Act the following section shall be inserted, namely :—

" 66A. (1) When any case has been referred to the High Court under section 66, it shall be heard by a Bench of not less than two Judges of the High Court, and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908,\* shall so far as may be, apply notwithstanding anything contained in the Letters Patent of any High Court established by Letters Patent or in any other law for the time being in force.

(2) An appeal shall lie to His Majesty in Council from any judgment of the High Court delivered on a reference made under section 66 in any case which the High Court certifies to be a fit one for appeal to His Majesty in Council.

(3) The provisions of the Code of Civil Procedure, 1908,\* relating to appeals to His Majesty in Council shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court :

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (5) or sub-section (7) of section 66 :

Provided, further, that the High Court may, on petition made for the execution of the order of His Majesty in Council in respect of any costs awarded thereby, transmit the order for execution to any Court subordinate to the High Court.

(4) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of His Majesty in Council in the manner provided in sub-sections (5) and (7) of section 66 in the case of a judgment of the High Court.

(5) Nothing in this section shall be deemed —

(a) to bar the full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council, or otherwise howsoever, or

(b) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to His Majesty in Council, or their conduct before the said Judicial Committee."

## ACT NO. XXV OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 25th March, 1926.)*

### An Act further to amend the Indian Divorce Act.

WHEREAS it is expedient further to amend the Indian Divorce Act,\* for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Divorce (Amendment) Act, 1926.

2. For the second, third and fourth paragraphs of section 2 of the Amendment of section 2, Indian Divorce Act the following shall be substituted, namely :—

“ Nothing hereinafter contained shall authorise any Court to grant any relief under this Act except where the petitioner professes the Christian religion,

or to make decrees of dissolution of marriage except where the parties to the marriage are domiciled in India at the time when the petition is presented,

or to make decrees of nullity of marriage except where the marriage has been solemnized in India and the petitioner is resident in India at the time of presenting the petition,

or to grant any relief under this Act, other than a decree of dissolution of marriage or of nullity of marriage, except where the petitioner resides in India at the time of presenting the petition.”

## ACT No. XXVI OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 25th March, 1926.)*

### An Act further to amend the Indian Factories Act, 1911.

WHEREAS it is expedient further to amend the Indian Factories Act, 1911, † for the purposes herein after appearing ; It is hereby enacted as follows :—

Short title and com-  
mencement.

1. (1) This Act may be called the Indian Factories (Amendment) Act, 1926.

\* IV of 1869.

† XII of 1911

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Amendment of section 2,  
Act XII of 1911.

2. In section 2 of the Indian Factories Act, 1911, \* (hereinafter referred to as the said Act),—

- (a) in clause (2), the *Explanation* shall be omitted ;
- (b) in sub-clause (a) of clause 3, for the words “process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, for transport or for sale any article or part of an article” the words “manufacturing process” shall be substituted ; and in sub-clause (b) of the same clause, for the words “such process” the words “manufacturing process” shall be substituted ; and

(c) after clause (3) the following clause shall be inserted, namely :—

“(4) ‘manufacturing process’ means any process for or incidental to,

(a) making, altering, repairing, ornamenting, finishing, or otherwise adapting for use, transport or sale, any article, or part of an article, or

(b) refining oil or pumping or filtering water, or

(c) supplying, generating or transforming pneumatic, hydraulic or electrical energy;”

and includes the baling of any material for transport.”

Amendment section 3,  
Act XII of 1911.

3. In section 3 of the said Act, for the figures “1901” the figures “1923” shall be substituted.

Amendment of section 7,  
Act XII of 1911.

4. In sub-section (1) of section 7 of the said Act,—

(a) after the words “such person and” the words “if he is fit for employment in a factory” shall be inserted ; and

(b) for the words “whether he is fit for employment in a factory” the words “that he is fit for such employment” shall be substituted.

5. In section 10 of the said Act, for the words “be provided, maintained and used before a specified date” the

Amendment of section 10,  
Act XII of 1911.

following shall be substituted, namely :—

“shall be provided before such date as may be specified in the order, and shall thereafter be maintained and used.”

6. (1) Section 19 of the said Act shall be renumbered as sub-section

Amendment of section 19,  
Act XII of 1911.

(1) of that section, and in that sub-section as so renumbered the words “as the case may be” shall be omitted.

(2) To the same section the following sub-section shall be added, namely :—

“(2) The Local Government may, by notification in the local official Gazette, prohibit in any factory or class of factories specified in the notification the cleaning by any person of any part so specified of any mill-gearing or machinery while the same is in motion by the action of steam, water or other mechanical or electrical power.”

Amendment of section 21,      7. In sub-section (1) of section 21 of the  
Act XII of 1911,      said Act,—

(a) for sub-clause (ii) of clause (a) the following sub-clause shall be substituted, namely :—

“(ii) at the request of the employees concerned, periods of rest, at intervals not exceeding five hours, of not less than half an hour each, the total duration of the periods of rest on that day not being less than one hour for each period of six hours’ work done” :

(b) to clause (a) the following proviso shall be added, namely :—

“Provided that, in lieu of the periods provided under sub-clause i) or sub-clause (ii) there may be fixed for each male person employed for not more than eight and a half hours on each working day, at the request of the employees concerned and with the previous sanction of the Local Government, a period of rest of not less than half an hour, so arranged that no such person shall work for more than five hours continuously, and”.

Amendment of section 25,      8. In section 25 of the said Act, the words  
Act XII of 1911.      “woman or” shall be omitted.

Amendment of section 39,      9. In sub-section (1) of section 30 of the  
Act XII of 1911.      said Act,—

(a) in clause (e) after the word “except” the number and brackets “(1)” shall be inserted, and after the words “seasons or” the number and brackets “(1)” shall be inserted ;

(b) after the words “as it may impose” the words “and in such area as may be specified in the notification” shall be inserted ;

(c) in the paragraph beginning “in case (a)” after the word ‘sections’ the figures “21” shall be inserted ;

(d) in the paragraph beginning “in case (b)” after the word “sections” the figures “21”, and after the figures “22” the figures “26” shall be inserted ;

(e) in the paragraph beginning “in case (c)” for the word and figures “and 22” the word and figures “22 and 28” shall be substituted ;

(f) after the paragraph beginning “in cases (d) and (e)” the following paragraph shall be added, namely :—

"in case (e) (ii) such class of factories from the provisions of section 26."

Amendment of section 31,  
Act XII of 1911.

10. In section 31 of the said Act, after the figure "(1)" the words and figure "or sub-section (2)" shall be inserted.

Insertion of new section  
32A in Act XII of 1911.

11. After section 32 of the said Act the following section shall be inserted, namely :—

"32A. The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt on such conditions, if any, as it may impose—

(a) any factory or class of factories from the provisions of section 22 in respect of persons employed therein in any engine-room or boiler-house, or

(b) any fish curing or fish canning factory from the provisions of clause (a) of section 24 where the employment of women outside the limits provided by that clause is necessary to prevent any damage to or deterioration of any raw material."

12. In sub-section (3) of section 33 of the said Act, for the words "the occupier shall himself" the words "or during which the person designated does not manage the factory any person found acting as manager of the factory or, if no such person is found, the occupier himself shall" shall be inserted.

Amendment of section 33,  
Act XII of 1911

13. In section 34 of the said Act, for the words "When any accident occurs in a factory causing" the words "When in any factory an accident occurs which causes," shall be substituted, and after the words "occurrence of the accident" the following shall be inserted, namely :—

"or which is due to any cause which has been notified in this behalf by the Local Government in the local official Gazette."

Amendment of section 35,  
Act XII of 1911.

14. To section 35 of the said Act the following provisos shall be added, namely :—

"Provided that, where the Local Government is satisfied that the conditions of work in any factory or class of factories are such that no contravention of the provisions of Chapter IV is possible in the case of that factory or of factories of that class, as the case may be, the Local Government may, by notification in the local official Gazette, exempt, on such conditions, if any, as it may impose, that factory or all factories of that class, as the case may be, from the provisions of this section in respect of persons, other than children, employed therein :

Provided, further, that, where in the opinion of the inspector a muster roll or register kept in a factory gives the particulars required under this section, he may, by order in writing,

direct that such muster roll or register shall be kept in place of the Register prescribed under this section, and such muster roll or register shall thereupon, for all the purposes of this Act, be deemed to be the register so prescribed "

Amendment of section 36,  
Act XII of 1911.

15. For sub section (3) of section 36 of the said Act the following sub-section shall be substituted, namely :—

"(3) The said notice shall be correctly maintained and kept up to date and any change in the standing orders of the factory shall be entered therein by the manager before such change comes into force ; and when any such change is entered in the notice, a copy of the notice or of the order in which the change is made shall be sent in duplicate by the manager to the inspector within thirty-six hours "

Insertion of new section  
44A in Act XII of 1911.

16. After section 44 of the said Act the following section shall be inserted, namely :—

"44A. Where a child is employed in any factory and such child has already been employed on the same day in any other factory, the parent or guardian or person having legal custody of or control over or direct benefit from the wages of the child shall be punished with fine, which may extend to twenty rupees, unless it appears to the Court that the offence was committed without the consent, connivance or wilful default of the parent, guardian, or such person as aforesaid."

Amendment of section 49,  
Act XII of 1911.

17. In section 49 of the said Act, after the word "thereunder" the words and figures "other than an offence under section 33" shall be

inserted.

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## ACT NO. XXVII OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 25th March, 1926)*

### An Act to explain certain provisions of the Transfer of Property Act, 1882.

Whereas it is expedient to explain certain provisions of the Transfer of Property Act, 1882 ; \* It is hereby enacted as follows :—

- |   |   |
|---|---|
| Short title.                            | 1. This Act may be called the Transfer of Property (Amendment Act, 1926.  |
| Amendment of section 3, Act IV of 1882. | 2. In section 3 of the Transfer of Property Act, 1882, * after the definition of the word "instrument" the following shall be inserted, namely :— |

“ ‘attested’, in relation to an instrument, means attested by two or more witnesses each of whom has seen the executant sign or affix his mark to the instrument, or has seen some other person sign the instrument in the presence and by the direction of the executant, or has received from the executant a personal acknowledgment of his signature or mark, or of the signature of such other person, and each of whom has signed the instrument in the presence of the executant ; but it shall not be necessary that more than one of such witnesses shall have been present at the same time, and no particular form of attestation shall be necessary.”

## ACT NO. XXVIII OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 3rd September 1926.)*

### An Act to amend the Usurious Loans Act, 1918, for certain purposes.

Whereas it is expedient to amend the Usurious Loans Act, 1918,† for certain purposes hereinafter appearing ; It is hereby enacted as follows :—

- |              |   |
|--------------|---|
| Short title. | 1. This Act may be called the Usurious Loans (Amendment) Act, 1926. |
|--------------|---|

\* IV of 1882.

† X of 1918.

Amendment of section 2,  
Act X of 1918,

2. To sub-section (3) of section 2 of the Usurious Loans Act, 1918\* (hereinafter referred to as the said Act), the following shall be added after clause *b*), namely :—

“or

(c) for the redemption of any security given after the commencement of this Act in respect of any loan made either before or after the commencement of this Act”.

Amendment of section 3,  
Act X of 1918.

3. In section 3 of the said Act,—

(i) in clause (i) of the proviso to sub-section (1), for the word “six” the word “twelve” shall be substituted ; and

(ii) to sub-section (3) after the words “in respect of a loan” the words “or for the redemption of any such security” shall be added.

## ACT NO. XXIX OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*Received the assent of the Governor General on the 3rd September 1926.*

### An Act further to amend the Workmen's Compensation Act, 1923

Whereas it is expedient further to amend the Workmen's Compensation Act, 1923† ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Workmen's Compensation (Amendment) Act, 1926.

2. In sub-section (2) of section 3 of the Workmen's Compensation Act, 1923,† for the words “hides or skins” the following shall be substituted namely :—

Amendment of section 3,  
Act VIII of 1923.

“or animal carcasses or parts of such carcasses, or in the loading, unloading or transport of any merchandise, or in any work in connection with animals infected with anthrax.”

\* X of 1918.

† VIII of 1923.

# ACT No. XXX OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 3rd September 1926.)

## An Act further to amend the Negotiable Instruments Act 1881, and the Code of Civil Procedure, 1908, for certain purposes.

Whereas it is expedient further to amend the Negotiable Instruments Act, 1881,\* and the Code of Civil Procedure, 1908,† for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title, 1. This Act may be called the Negotiable Instruments (Interest) Act, 1926.

2. In section 80 of the Negotiable Instruments Act, 1881,\* for the words and figures "except in cases provided for by the Code of Civil Procedure,† section 532" the words "notwithstanding any agreement relating to interest between any parties to the instrument" shall be substituted.

3. In section 117 of the same Act, the words and brackets "(except in cases provided for by the Code of Civil Procedure,† section 532," shall be omitted.

Amendment of First Schedule to Act V of 1908. 4. "In the First Schedule to the Code of Civil Procedure 1908†—

(1) in sub-rule (2) of rule 2 of Order XXXVII, for the words beginning with the words "for any sum not exceeding" and ending with the words "executed forthwith" the following shall be substituted, namely :—

"(a) for the principal sum due on the instrument and for interest calculated in accordance with the provisions of section 79 or section 80, as the case may be, of the Negotiable Instruments Act, 1881,\* up to the date of the institution of the suit, or for the sum mentioned in the summons, whichever is less, and for interest up to the date of the decree at the same rate or at such other rate as the Court thinks fit ; and

(b) for such subsequent interest, if any, as the Court may order under section 34 of this Code ; and

(c) for such sum for costs as may be prescribed :

Provided that, if the plaintiff claims more than such fixed sum for costs, the costs shall be ascertained in the ordinary way.

(3) A decree passed under this rule may be executed forthwith" ; and

(2) in Form No. 4 in Appendix B, after the words "for costs" the words "together with such interest, if any from the date of the institution of the suit as the Court may order" shall be inserted.

\* XXVI of 1881.

† V. of 1908.

## ACT NO. XXXI OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 9th September, 1926.)*

### An Act further to amend the Indian Evidence Act, 1872, for a certain purpose.

Whereas it is expedient further to amend the Indian Evidence Act, 1872,\* for the purpose hereinafter appearing ; It is hereby enacted as follows :—

- |   |   |
|---|---|
| Short title.                            | 1. This Act may be called the Indian Evidence (Amendment) Act, 1926.                                |
| Amendment of section 68, Act I of 1872. | 2. To section 68 of the Indian Evidence Act, 1872,* the following proviso shall be added, namely :— |

“Provided that it shall not be necessary to call an attesting witness in proof of the execution of any document, not being a will, which has been registered in accordance with the provisions of the Indian Reistration Act; 1908† unless its execution by the person by whom it purports to have been executed is specifically denied.”

## ACT NO. XXXII OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 9th September, 1926.)*

### An Act further to amend the Administrator General's Act 1913.

Whereas it is expedient further to amend the Administator General's Act, 1913,‡ for the purposes hereinafter appearing ; It is hereby enacted as follows :—

- |   |  |
|---|--|
| Short title.  | 1. This Act may be called the administrator General's (Amendment) Act, 1926.   |
| Amendments of sections 9, 31 and 37, Act III of 1913. | 2. In sections 9, 31 and 37 of the Administrator General's Act, 1913,‡ for the words “one thousand” the words “two thousand” shall be substituted. |

\* I of 1872

+ XVI of 1908.

‡ III of 1913.

## ACT NO. XXXIII OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 9th  
September, 1926.)*

### An Act further to amend the Indian Companies Act 1913, for a certain purpose.

Whereas it is expedient further to amend the Indian Companies Act, 1913,\* for the purpose hereinafter appering ; It is hereby enacted as follows :—

- |   |   |
|---|---|
| Short title.                              | 1. This Act may be called the Indian Companies (Amendment) Act, 1926.   |
| Amendment of section 26, Act VII of 1913. | 2. In sub-section (1) of section 26 of the Indian Companies Act, 1913,* after the word "science" the word "religion" shall be inserted. |

## ACT No. XXXIV OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 9th September, 1926.)*

### An Act to supplement the Sind Courts Act, 1926.

Whereas it is expedient to supplement the Sind Courts Act, 1926,† for the purposes hereinafter appearing ; It is hereby enacted as follows :—

- |                                  |   |
|----------------------------------|---|
| Short title and commencement.    | 1. (1) This Act may be called the Sind Courts (Supplementary) Act, 1926.  |
| Amendment of certain enactments. | 2 The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof. |
| Repeals.                         | 3. Part I of the First Schedule and Part I of the Second Schedule to the Sind Courts Act, 1926† are hereby repealed.                  |

\* VII of 1913.

† Bom. Act VII of 1926.

THE SCHEDULE.  
ENACTMENTS AMENDED.  
( See Section 2. )

Year.	No.	Short title.	Amendments.
1866	XXVII	The Indian Trustee Act, 1866.	In section 2, in the definition of "High Court" for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted.
,,	XXVIII	The Trustees' and Mortgagees' Powers Act, 1866.	In section 1, in the definition of "High Court" for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted.
1869	IV	The Indian Divorce Act.	<p>In section 3—</p> <p>(i) in clause (1), after the words "the Chief Court of Oudh" the words "in Sind—the Chief Court of Sind" shall be inserted ;</p> <p>(ii) in clause (2)—</p> <p>•(i) the words "in Sind—the Judicial Commissioner of that province" shall be omitted. and</p> <p>(ii) after the words "in Burma" the words "and Sind" shall be inserted.</p>
1875	XVIII	The Indian Law Reports Act, 1875.	<p>(1) In the preamble for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted.</p> <p>(2) In section 3, after the words "Court of Oudh" the words "or the Chief Court of Sind" shall be inserted.</p>
1879	XVIII	The Legal Practitioners Act, 1879.	In sub-section (4) of section 41, for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted.
1891	XVI	The Colonial Courts of Admiralty (India) Act, 1891.	<p>In section 2—</p> <p>(i) after clause (4) the following clause shall be inserted, namely : —</p> <p>"(4a) The Chief Court of Sind, and";</p>

Year.	No.	Short title.	Amendments.
1898	V ...	The Code of Criminal Procedure, 1898.	<p>(ii) the word "and", at the end of clause (5), and clause (6) shall be omitted.</p> <p>(1) In clause (j) of sub-section (1) of section 4—</p> <p>(i) for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted, and</p> <p>(ii) for the words "Courts of the Judicial Commissioners of the Central Provinces and Sind" the words "Court of the Judicial Commissioner of the Central Provinces" shall be substituted.</p> <p>(2) In section 266—</p> <p>(i) for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted; and</p> <p>(ii) for the words "Courts of the Judicial Commissioners of the Central Provinces and Sind" the words "Court of the Judicial Commissioner of the Central Provinces" shall be substituted.</p> <p>(3) In sub-section (1) of section 364, after the words "Court of Oudh" the words "or the Chief Court of Sind" shall be inserted.</p> <p>(4) In section 365, for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted.</p>
1908	V ...	The Code of Civil Procedure, 1908.	<p>(1) In section 122, for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted.</p> <p>(2) In section 123, for the words "of the Chief Court" the words "Chief Courts" shall be substituted.</p>

Year.	No.	Short title.	Amendments.
1908	IX ...	The Indian Limitation Act, 1908.	In the First Schedule, Third Division, in Article 162, after the word "Bombay" the words "or the Chief Court of Sind" shall be inserted.
1909	III ...	The Presidency-towns Insolvency Act, 1909.	<p>(1) In clause (bbb) of section 2, for the words "Court of the Judicial Commissioner of Sind" the words "Chief Court of Sind" shall be substituted.</p> <p>(2) For clause (b) of section 3 the following clause shall be substituted, namely :—</p> <p style="padding-left: 40px;">“(b) the Chief Court of Sind.”</p> <p>(3) In section 4 and in sub section (1) of section 6, for the words "Judicial Commissioner" the words "Chief Judge" shall be substituted.</p> <p>(4) In sub-section (1) of section 77. for the words "Judicial Commissioner of Sind" the words "Chief Judge of the Chief Court of Sind" shall be substituted.</p> <p>(5) In sub-section (8) of section 90, for the words "Court of the Judicial Commissioner of Sind" the words "Chief Court of Sind" shall be substituted.</p>
1920	V ...	The Provincial Insolvency Act, 1920.	In clause (b) of sub-section (1) of section 2, for the words "Court of the Judicial Commissioner of Sind" the words "Chief Court of Sind" shall be substituted.



# ACT No. XXXV OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 9th September, 1926.)*

## An Act further to amend the Cantonments Act, 1924, for certain purposes.

WHEREAS it is expedient further to amend the Cantonments Act, 1924,\* for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Cantonments (Amendment) Act, 1926.

2. In clause (i) of section 2, the proviso to clause (e) of sub-section (1) of section 14, sub-section (4) of section 22, sub-section (3) of section 36, section 83, sub-section (1) of section 101, sub-section (2) of section 134, sub-section (1) of section 151 and the proviso thereto, sub-section (1) of section 192, clauses (b) and (c) of section 200 of the Cantonments Act, 1924,\* (hereinafter referred to as the said Act), and in each entry, except the last, in Schedule V to the said Act, for the words " Officer Commanding the District," the words " Officer Commanding-in-Chief, the Command " shall be substituted.

3. In sub-section (2) of section 41 of the said Act, after the words " information to," the words " the Officer Commanding-in-Chief, the Command " shall be inserted.

4. In sections 47 and 48 of the said Act, for the words " Officer Commanding the District " the words " Governor General in Council or the Officer Commanding-in-Chief, the Command " shall be substituted.

5. In section 49 of the said Act,—

(i) for the words " Officer Commanding the District " where they occur for the first time, the words " Governor General in Council or the Officer Commanding-in-Chief, the Command " shall be substituted ;

(ii) for the words " with the concurrence of the Officer Commanding-in-Chief, the Command, and of," the words " after consultation with " shall be substituted ; and

(iii) for the words " Officer Commanding the District," where they occur in the proviso, the words " Governor General in Council or the Officer Commanding-in-Chief, the Command, as the case may be " shall be substituted.

6. In section 50 of the said Act, for the words "Officer Commanding the District," the words "Governor General in Council or the Officer Commanding-in Chief, the Command, as the case may be," shall be substituted.

Amendment of section 50, Act II of 1924.

Insertion of new section 99A in Act II of 1924.

7. After section 99 of the said Act the following section shall be inserted, namely :—

"99A. The Local Government may, by notification in the local official Gazette, exempt, either wholly or in part from the payment of any tax imposed under this Act, any person or class of persons or any property or goods or class of, property or goods belonging to the Secretary of State for India in Council."

General power of exemption.

Insertion of new section 117A in Act II of 1924

8. After section 117 of the said Act the following section shall be inserted, namely :—

"117A. A Cantonment Authority may make provision for educational objects outside the cantonment if it is satisfied that the interests of the residents of the cantonment will be served thereby."

Power of expenditure for educational purposes outside the cantonment.

Amendment of section 277, Act II of 1924.

9. In section 277 of the said Act,—

(i) sub-section (1) shall be omitted and sub-sections (2) and (3) shall be re-numbered sub-sections (1) and (2) ;

(ii) in sub-section (2) as re-numbered, for the words "Officer Commanding the District," the words "Officer Commanding-in-Chief, the Command" shall be substituted.

Amendment of section 280, Act II of 1924.

10. In sub-section (2) of section 280 of the said Act, after clause (h) the following clause shall be inserted, namely :—

"(hh) the circumstances in which and the conditions subject to which remissions and refunds of taxes may be made in respect of buildings in hill cantonments."

Amendment of section 287, Act II of 1924.

11. For sub-section (2) of section 287 of the said Act the following sub-section shall be substituted, namely :—

"(2) The Registrar or Sub-Registrar of the district or sub-district formed for the purposes of the Indian Registration Act, 1908,\* in which any cantonment is situated, shall, when any application for the registration of a document relating to immoveable property within the cantonment is made, cause a copy thereof to be forwarded forthwith to the Cantonment Authority or such other authority as the Governor General in Council may prescribe in this behalf."

ACT NO. XXXVI OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 9th  
September, 1926.)

**An Act further to amend the Code of Criminal Procedure, 1898,  
for a certain purpose.**

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898,\* for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title, 1. This Act may be called the Code of Criminal Procedure (Third Amendment) Act, 1926.

Amendment of section  
99A, Act V of 1898.

(a) after the words " seditious matter " the words " or any matter which promotes or is intended to promote feelings of enmity or hatred between different classes of His Majesty's subjects " shall be inserted ; and

(b) after the word and figures "section 124A" the words and figures "or section 153A" shall be inserted.

3. In section 99B of the said Act, for the words " seditious matter " the words " seditious or other matter of such a nature as is referred to in sub-section (1) of section 99A " shall be substituted.

4. In sub section (1) of section 99D of the said Act, for the words  
 Amendment of section 99D, Act V of 1898. "seditious matter of the nature" the words  
 "seditious or other matter of such a nature as is" shall be substituted.

5. In section 99E of the said Act, for the words " which are alleged to be seditious matter " the words " in respect of which the order of forfeiture was made " shall be substituted

\* V of 1898.

## ACT NO. XXXVII OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 9th  
September, 1926.)*

### An Act to amend the Indian Succession Act, 1925, for a certain purpose. .

WHEREAS it is expedient to amend the Indian Succession Act, 1925,\* for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title and com- mencement.	1. (1) This Act may be called the Indian Succession (Amendment) Act, 1926.
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(2) It shall come into force on the 1st day of January, 1927.

2. Section 57 of the Indian Succession Act, 1925,* shall be re- numbered as sub section (1) of section 57, and to that section the following sub-section shall be added, namely :—	Amendment of section 57, Act XXXIX of 1925.
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“(2) The provisions of section 63 shall apply to all wills and  
codicils made by any Hindu, Buddhist, Sikh or Jaina on or  
after the 1st day of January 1927, to which those provisions  
are not applied by sub-section (1).”

## ACT No. XXXVIII OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*Received the assent of the Governor General on the 9th September, 1926,*

### An Act to provide for the constitution of Bar Councils in British India and for other purposes.

Whereas it is expedient to provide for the constitution and incorpora-  
tion of Bar Councils for certain Courts in British India, to confer powers  
and impose duties on such Bar Councils, and to consolidate and amend  
the law relating to legal practitioners entitled to practise in such Courts ;  
It is hereby enacted as follows :—

#### *Preliminary.*

Short title, extent, appli- cation and commencement.	1. (1) This Act may be called the Indian Bar Councils Act, 1926.
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(2) It extends to the whole of British India, and shall apply to the  
High Courts of Judicature at Fort William in Bengal, and at Madras,

\* XXXIX of 1925.

Bombay, Allahabad, Patna and Rangoon and to such other High Courts within the meaning of clause (24) of section 3 of the General Clauses Act, 1897, \* as the Governor General in Council may, by notification in the Gazette of India, declare to be High Courts to which this Act applies.

(3) This section and sections 2, 17, 18 and 19 shall come into force at once ; and the Governor General in Council may, by notification in the Gazette of India, direct that the other provisions of this Act, or any provision thereof specified in the notification, shall come into force in respect of any High Court to which this Act applies on such date as he may by the notification appoint.

Interpretation.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) "advocate" means an advocate entered in the roll of advocates of a High Court under the provisions of this Act ;
- (b) "Advocate-General" includes, where there is no Advocate-General, the Government Advocate and, where there is no Advocate-General or Government Advocate, such officer as the Local Government may declare to be the Advocate-General for the purposes of this Act ;
- (c) "High Court" means a High Court to which this Act applies ; and
- (d) "prescribed" means prescribed by rules made under this Act.

*Constitution of Bar Councils.*

Constitution and incorporation of Bar Councils.

3. (1) For every High Court a Bar Council shall be constituted in the manner hereinafter provided.

(2) Every Bar Council so constituted shall be a body corporate having perpetual succession and a common seal with power to acquire and hold property, both moveable and immoveable, and to contract, and shall by the name of the Bar Council of the High Court for which it has been constituted sue and be sued.

Composition of Bar Councils.

4. (1) Every Bar Council shall consist of fifteen members, of whom—

- (a) one shall be the Advocate-General ;
- (b) four shall be persons nominated by the High Court, of whom not more than two may be Judges of that Court ; and
- (c) ten shall be elected by the advocates of the High Court from amongst their number.

(2) Of the elected members of every Bar Council not less than five shall be persons who have for not less than ten years been entitled as of right to practise in the High Court for which the Bar Council has been constituted.

(3) Of the elected members of the Bar Councils to be constituted for the High Courts of Judicature at Fort William in Bengal and at Bombay such proportion as the High Court may direct in each case shall be persons who have, for such minimum period as the High Court may determine, been entitled to practise in the High Court in the exercise of its original jurisdiction, and such number as may be fixed by the High Court out of the said proportion shall be barristers of England or Ireland or members of the Faculty of Advocates in Scotland.

(4) There shall be a Chairman and Vice-Chairman of each Bar Council elected by the Council in such manner as may be prescribed :

Provided that the Advocates General of Bengal, Madras and Bombay shall be Chairman *ex-officio*, respectively, of the Bar Councils constituted for the High Courts of Judicature at Fort William in Bengal at Madras and at Bombay.

5 (1) Notwithstanding anything contained in clause (c) of sub-section (1) of section 4, the elected members of the first Bar Council constituted under this Act for any High Court shall be elected by and from amongst the advocates, vakils and pleaders who are on the date of the election entitled as of right to practise in the High Court.

(2) The terms of office of the nominated and elected members of any such first Bar Council shall be three years from the date of the first meeting of the Council.

Power to make rules regarding constitution and procedure of Bar Councils.

6. (1) Rules, consistent with this Act, may be made to provide for the following matters, namely :—

(a) the manner in which elections of members of the Bar Council shall be held ; the method of determining, in accordance with the provisions of sub-sections (2) and (3) of section 4, the candidates who shall be declared to have been elected ; the manner in which the result of elections shall be published ; and the manner in which and the authority by which doubts and disputes as to the validity of an election shall be finally decided ;

(b) the terms of office of nominated and elected members of the Council ;

(c) the filling of casual vacancies in the Council ;

(d) the convening of meetings of the Council, and the quorum necessary for the transaction of business thereat ;

(e) the manner of election and the respective terms of office of the Chairman, in cases where the Chairman is to be elected, and of the Vice Chairman ; and

(f) any matter incidental or ancillary to any of the foregoing matters.

(2) The first rules under this section shall be made by the High Court, but the Bar Council may thereafter, with the previous sanction of the High Court, add to, amend or rescind any rules so made.

(3) No election of a member or members to the Council shall be called in question on the ground that due notice thereof has not been

given to any person entitled to vote thereat, if notice of the date fixed for the election has, not less than thirty days before that date, been published in the local official Gazette of the province, or of each province, as the case may be, in which the High Court exercises jurisdiction.

(4) Rules made under clause (b) of sub-section (1) may provide for the retirement of members from office by rotation and for the manner in which the order of such retirement shall be determined

7. The Bar Council may make bye-laws consistent with this Act and any rules made thereunder to provide for any of the following matters, namely :—

Power of Bar Councils to make bye-laws.

(a) the appointment of such ministerial officers and servants as the Bar Council may deem necessary, and the pay and allowances and other conditions of service of such officers and servants ; and

(b) the appointment and constitution of Committees of the Council, the procedure of such Committees, and the determination of the powers or duties of the Council which may be delegated to such Committees.

*Admission and enrolment of advocates.*

8. (1) No person shall be entitled as of right to practise in any High Court, unless his name is entered in the roll of the advocates of the High Court maintained under this Act :

Enrolment of advocates. Provided that nothing in this sub-section shall apply to any attorney of the High Court.

(2) The High Court shall prepare and maintain a roll of advocates of the High Court in which shall be entered the names of—

(a) all persons who were, as advocates, vakils or pleaders, entitled as of right to practise in the High Court immediately before the date on which this section comes into force in respect thereof ; and

(b) all other persons who have been admitted to be advocates of the High Court under this Act :

Provided that such persons shall have paid in respect of enrolment the stamp duty, if any, chargeable under the Indian Stamp Act 1899, \* and a fee, payable to the Bar Council, which shall be ten rupees in the case of the persons referred to in clause (a) and in other cases such amount as may be prescribed.

(3) The High Court shall issue a certificate of enrolment to every person enrolled under this section.

(4) The High Court shall send to the Bar Council a copy of the roll as prepared under this section, and shall thereafter communicate to the Bar Council all alterations in, and additions to, the roll as soon as the same have been made.

(5) The Bar Council shall enter in the copy of the roll all alterations and additions so communicated to it.

9. (1) The Bar Council may, with the previous sanction of the High Court, make rules to regulate the admission of persons to be advocates of the High Court :  
Qualifications and admission of advocates.

Provided that such rules shall not limit or in any way affect the power of the High Court to refuse admission to any person at its discretion.

(2) In particular and without prejudice to the generality of the foregoing power, such rules shall provide for the following matters, namely :—

- (a) the qualifications to be possessed by persons applying for admission as advocates ;
- (b) the form and manner in which applications shall be made to the High Court for admission ;
- (c) the giving of notice by the High Court to the Bar Council of all such applications ;
- (d) the hearing by the High Court of any objection preferred on behalf of the Bar Council to the admission of any applicant ; and
- (e) the charging of fees payable to the Bar Council in respect of enrolment.

(3) Rules made under this section shall provide that no woman shall be disqualified for admission to be an advocate by reason only of her sex.

(4) Nothing in this section or in any other provision of this Act shall be deemed to limit or in any way affect the powers of the High Courts of Judicature at Fort William in Bengal and at Bombay to prescribe the qualifications to be possessed by persons applying to practise in those High Courts respectively in the exercise of their original jurisdiction or the powers of those High Courts to grant or refuse, as they think fit, any such application.

#### *Misconduct.*

10. (1) The High Court may, in the manner hereinafter provided, reprimand, suspend or remove from practice any advocate of the High Court whom it finds guilty of professional or other misconduct.  
Punishment of advocate for misconduct.

(2) Upon receipt of a complaint made to it by any Court or by the Bar Council or by any other person that any such advocate has been guilty of misconduct, the High Court shall, if it does not summarily reject the complaint, refer the case for inquiry either to the Bar Council or, after consultation with the Bar Council, to the Court of a District Judge (hereinafter referred to as a District Court) and may of its own motion so refer any case in which it has otherwise reason to believe that any such advocate has been so guilty.



11. (1) Where any case is referred for inquiry to the Bar Council Tribunal of Bar Council, under section 10, the case shall be inquired into by a Committee of the Bar Council (hereinafter referred to as the Tribunal).

(2) The Tribunal shall consist of not less than three and not more than five members of the Bar Council appointed for the purpose of the inquiry by the Chief Justice or Chief Judge of the High Court, and one of the members so appointed shall be appointed to be the President of the Tribunal.

12. (1) The High Court shall make rules to prescribe the procedure to be followed by Tribunals and by District Courts, respectively, in the conduct of inquiries referred under section 10.

(2) The finding of a Tribunal on an inquiry referred to the Bar Council under section 10 shall be forwarded to the High Court through the Bar Council, and the finding of a District Court on such an inquiry shall be forwarded direct to the High Court which shall cause a copy thereof to be sent to the Bar Council.

(3) On receipt of the finding, the High Court shall fix a date for the hearing of the case and shall cause notice of the day so fixed to be given to the advocate concerned and to the Bar Council and to the Advocate-General, and shall afford the advocate concerned and the Bar Council and the Advocate-General an opportunity of being heard before orders are passed in the case.

(4) The High Court may thereafter either pass such final orders in the case as it thinks fit or refer it back for further inquiry to the Tribunal through the Bar Council or to the District Court, as the case may be, and, upon receipt of the finding after such further inquiry, deal with the case in the manner provided in sub-section (3) and pass final orders thereon.

(5) In passing final orders the High Court may pass such order as regards the payment of the costs of the inquiry and of the hearing in the High Court as it thinks fit.

(6) The High Court may, of its own motion or on application made to it in this behalf, review any order passed under sub-section (4) or sub-section (5) and maintain, vary or rescind the same, as it thinks fit.

(7) When any advocate is reprimanded or suspended under this Act, a record of the punishment shall be entered against his name in the roll of advocates of the High Court, and when an advocate is removed from practice his name shall forthwith be struck off the roll; and the certificate of any advocate so suspended or removed shall be recalled.

13. (1) For the purposes of any such inquiry as aforesaid, a Tribunal or a District Court shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908,\* in respect of the following matters, namely :—

(a) enforcing the attendance of any person and examining him upon oath,

- (b) compelling the production of documents, and
- (c) issuing commissions for the examination of witnesses :

Provided that the Tribunal shall not have power to require the attendance of the presiding officer of any Court save with the previous sanction of the High Court or, in the case of an officer of a Criminal or Revenue Court, of the Local Government.

(2) Every such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code;\* and a Tribunal shall be deemed to be a Civil Court for the purposes of sections 480, 482 and 485 of the Code of Criminal Procedure, 1898.†

(3) For the purpose of enforcing the attendance of any person and examining him upon oath or of compelling the production of documents or of issuing commissions—

(a) the local limits of the jurisdiction of a Tribunal shall be those of the jurisdiction of the High Court by which the Tribunal has been constituted; and

(b) a Tribunal may send to any Civil Court having jurisdiction in the place where the Tribunal is sitting any summons or other process for the attendance of a witness or the production of a document required by the Tribunal, or any commission which it desires to issue, and the Civil Court shall serve such process or issue such commission, as the case may be, and may enforce any such process as if it were a process for attendance or production before itself.

(4) Proceedings before a Tribunal or a District Court in any such inquiry shall be deemed to be civil proceedings for the purposes of section 132 of the Indian Evidence Act, 1872,‡ and the provisions of that section shall apply accordingly.

#### *Miscellaneous.*

Right of advocates to practise. 14. (1) An advocate shall be entitled as of right to practise—

- (a) subject to the provisions of sub-section (4) of section 9, in the High Court of which he is an advocate, and
- (b) save as otherwise provided by sub-section (2) or by or under any other law for the time being in force, in any other Court in British India and before any other Tribunal or person legally authorised to take evidence, and
- (c) before any other authority or person before whom such advocate is by or under the law for the time being in force entitled to practise.

(2) Where rules have been made by any High Court within the meaning of clause (24) of section 3 of the General Clauses Act, 1897.§ or in the case of a High Court for which a Bar Council has been constituted under this Act, by such Bar Council under section 15, regulating the conditions subject to which advocates of other High Courts may be permitted to practise in the High Court, such advocates shall not be entitled to practise therein otherwise than subject to such conditions.

\* XLV of 1860.

† V of 1898.

‡ I of 1872.

§ X of 1897.

(3) Nothing in this section shall be deemed to limit or in any way affect the power of the High Court of Judicature at Fort William in Bengal or of the High Court of Judicature at Bombay to make rules determining the persons who shall be entitled respectively to plead and to act in the High Court in the exercise of its original jurisdiction

15. A Bar Council may, with the previous sanction of the High Court for which it is constituted, make rules consistent with this Act to provide for and regulate any of the following matters, namely :—

General power of Bar Councils to make rules.

- (a) the rights and duties of the advocates of the High Court and their discipline and professional conduct ;
- (b) the conditions subject to which advocates of other High Courts may be permitted to practise in the High Court ;
- (c) the giving of facilities for legal education and training and the holding and conduct of examinations by the Bar Council ;
- (d) the charging of fees payable to the Bar Council in respect of the enjoyment of educational facilities provided, or of the right to appear at examinations held, by the Bar Council ;
- (e) the investment and management of the funds of the Bar Council ; and
- (f) any other matter in respect of which the High Court may require rules to be made under this section.

16. The High Court shall make rules for fixing and regulating by taxation or otherwise the fees payable as costs by any party in respect of the fees of his adversary's advocate upon all proceedings in the High Court or in any Court subordinate thereto.

Power to fix fees payable as costs.

17. No suit or other legal proceeding shall lie against a Bar Council or any Committee, Tribunal or member of a Bar Council for any act in good faith done or intended to be done in pursuance of the provisions of this Act or of any rule made thereunder.

Indemnity against legal proceedings.

18. All rules made under this Act shall be published in the local official Gazette of the province, or of each province, as the case may be, in which the High Court by which or with whose sanction the rules are made exercises jurisdiction.

Publication of rules.

19. (1) When sections 8 to 16 come into force in respect of any High Court, any enactment mentioned in the first column of the Schedule which is in force in any province in which the High Court exercises jurisdiction shall, for the purpose of its application to that province, be amended to the extent and in the manner specified in the second column of the Schedule.

Amendment of enactments, etc.

(2) When sections 8 to 16 come into force in respect of any High Court of Judicature established by Letters Patent, this Act shall have effect in respect of such Court notwithstanding anything contained in

such Letters Patent, and such Letters Patent shall, in so far as they are inconsistent with this Act or any rules made thereunder, be deemed to have been repealed.

(3) When sections 8 to 16 come into force in respect of the High Court of Judicature at Bombay, the Bombay Pleaders' Act, 1920, \* except section 7 thereof, shall cease to apply to or in respect of any person enrolled as an advocate of the High Court under this Act, and nothing in that Act shall be deemed to authorise the admission or enrolment of any person as a vakil or pleader of the High Court

(4) When this Act has come into force in respect of any High Court, any provision of any other enactment or any order, scheme, rule, form or bye-law made thereunder, which was before that date applicable to advocates, vakils or pleaders entitled to practise in such High Court shall, unless such a construction is repugnant to the context or to any provision made by or under this Act, be construed as applying to advocates of the High Court enrolled under this Act.

## THE SCHEDULE.

( See section 19. )

### AMENDMENT OF ENACTMENTS.

Enactments amended	Extent and manner of amendment.
The Legal Practitioners Act, 1879.	<p>(1) In section 4, after the words "with the permission of the Court" the words and figures "or, in the case of a High Court in respect of which the Indian Bar Councils Act, 1926, is in force, subject to rules made under that Act" shall be inserted.</p> <p>(2) In section 6, clauses (a) and (b) after the words "Royal Charter" the words and figures "in respect of which the Indian Bar Councils Act, 1926, is not in force" shall be inserted.</p> <p>(3) To section 38 the following words and figures shall be added, namely :—</p> <p style="padding-left: 40px;">"and, except as provided by section 36, nothing in this Act applies to persons enrolled as advocates of any High Court under the Indian Bar Councils Act, 1926."</p> <p>(4) In section 41, sub-section (1), after the words "Royal Charter" the words and figures "in respect of which the Indian Bar Councils Act, 1926, is not in force" shall be inserted.</p>
The Indian Stamp Act, 1899.	In Article 30 of the First Schedule after the words "High Court", where they first occur, the words and figures "under the Indian Bar Councils Act, 1926 or" shall be inserted.

\* Bom' Act XVII of 1920,

Enactments amended.	Extent and manner of amendment.
The Madras Stamp, (Amendment) Act, 1922.	In Article 25 of Schedule 1A, after the words "High Court," where they first occur, the words and figures "under the Indian Bar Councils Act, 1926, or" shall be inserted.
The Bengal Stamp (Amendment) Act 1922.	In Article 30 of Schedule 1A, after the words "High Court," where they first occur, the words and figures "under the Indian Bar Councils Act, 1926, or" shall be inserted.
The Indian Stamp (Pan-jab Amendment) Act, 1922.	In Article 30 of Schedule 1A, after the words "High Court," where they first occur, the words and figures "under the Indian Bar Councils Act, 1926, or" shall be inserted.
The Assam Stamp (Amendment) Act, 1922.	In Article 30 of Schedule 1A, after the words "High Court," where they first occur, the words and figures "under the Indian Bar Councils Act, 1926, or" shall be inserted.

## ACT NO. XXXIX OF 1926.

[ PASSED BY THE INDIAN LEGISLATURE. ]

*Received the assent of the Governor General on 9th September, 1926.*

### An Act further to amend the Provincial Insolvency Act, 1920, for certain purposes.

Whereas it is expedient further to amend the Provincial Insolvency Act, 1920,\* for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Provincial Insolvency (Amendment) Act, 1926.

2. In sub-section (3) of section 33 of the Provincial Insolvency Act, 1920\* (hereinafter referred to as the said Act), for the word "insolvent" where it occurs for the last time, the word "receiver" shall be substituted.

Amendment of section 33, Act V. of 1920.

Insertion of new section 54A in Act V. of 1920.

3. After section 54 of the said Act the following section shall be inserted, namely :—

"54A. A petition for the annulment of any transfer, under section 53, or of any transfer, payment, obligation or judicial proceeding under section 54, may be made by the receiver or, with the leave of the Court, by any creditor who has proved his debt and who satisfies the Court that the receiver has been requested and has refused to make such petition."

By whom petitions for annulment may be made.

Insertion of new section  
59A in Act V of 1920.

4. After section 59 of the said Act the following section shall be inserted, namely :—

“59A. (1) The Court, if specially empowered in this behalf by an order of the Local Government, or any officer of the Court so empowered by a like order, may, on the application of the receiver or any creditor who has proved his debt, at any time after an order of adjudication has been made, summon before it in the prescribed manner any person known or suspected to have in his possession any property belonging to the insolvent, or supposed to be indebted to the insolvent, or any person whom the Court or such officer, as the case may be, may deem capable of giving information respecting the insolvent or his dealings or property, and the Court or such officer may require any such person to produce any documents in his custody or power relating to the insolvent or to his dealings or property.

(2) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court or such officer at the time appointed, or refuses to produce any such document, having no lawful impediment made known to and allowed by the Court or such officer, the Court or such officer may, by warrant, cause him to be apprehended and brought up for examination.

(3) The Court or such officer may examine any person so brought before it or him concerning the insolvent, his dealings or property, and such person may be represented by a legal practitioner.”

Insertion of new section  
67A in Act V of 1920.

5. After section 67 of the said Act the following section shall be inserted, namely :—

“67A. (1) The Court may, if it thinks fit, authorise the creditors who have proved their debts to appoint a committee of inspection of inspection for the purpose of superintending the administration of the insolvent's property by the receiver.

(2) The persons appointed to a committee of inspection shall be creditors who have proved their debts or persons holding general powers-of-attorney from such creditors.

(3) The committee of inspection shall have such powers of control over the proceedings of the receiver as may be prescribed.”

Amendment of section 79,  
Act V of 1920.

6. In sub-section (2) of section 79 of the said Act, the word “and” at the end of clause (c) shall be omitted, and after clause (d) the following clause shall be added, namely :—

“and

(e) for any matter which is to be or may be prescribed”.

Amendment of section 80,  
Act V of 1920.

7. In sub section (1) of section 80 of the said Act, clauses (a), (c) and (d) shall be omitted.

# ACT No. XL OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

*Received the assent of the Governor-General on the 9th September, 1926.*

## An Act to amend the provisions of section 33 of the Indian Succession Act, 1925.

Whereas it is expedient to amend the provisions of section 33 of the Indian Succession Act, 1925, \* so as to provide more liberally for the surviving widow or husband where there are no lineal descendants in the case of a total intestacy; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Indian Succession (Amendment) Act, 1926.

2. To clause (b) of section 33 of the Indian Succession Act, 1925 \* (hereinafter referred to as the said Act), before the words "If he has left no lineal descendant" there shall be prefixed the words "Save as provided by section 33A".

Amendment of section 33, Act XXXIX of 1925. Insertion of new section 33A in Act XXXIX of 1925. 3. After section 33 of the said Act the following section shall be inserted, namely:—

"33A. (1) Where the intestate has left a widow but no lineal descendants and the nett value of his property does not exceed five thousand rupees, the whole of his property shall belong to the widow.

Special provision where intestate has left widow and no lineal descendants.

(2) Where the nett value of the property exceeds the sum of five thousand rupees, the widow shall be entitled to five thousand rupees thereof and shall have a charge upon the whole of such property for such sum of five thousand rupees, with interest thereon from the date of the death of the intestate at 4 per cent. per annum until payment.

(3) The provision for the widow made by this section shall be in addition and without prejudice to her interest and share in the residue of the estate of such intestate remaining after payment of the said sum of five thousand rupees, with interest as aforesaid, and such residue shall be distributed in accordance with the provisions of section 33 as if it were the whole of such intestate's property.

(4) The nett value of the property shall be ascertained by deducting from the gross value thereof all debts, and all funeral and administration expenses of the intestate, and all other lawful liabilities and charges to which the property shall be subject.

(5) This section shall not apply—

(a) to the property of:—

(i) any Indian Christian,

(ii) any child or grandchild of any male person who is or was at the time of his death an Indian Christian, or

(iii) any person professing the Hindu, Buddhist, Sikh or Jaina religion the succession to whose property is, under section 24 of the Special Marriage Act, 1872, † regulated by the provisions of this Act;

(b) unless the deceased dies intestate in respect of all his property."















